

498607-2024 - Result

Denmark, Austria, Sweden, Ireland, Portugal, Croatia – IT services: consulting, software development, Internet and support – TopSky ATC One Upgrade and Service Agreement

OJ S 161/2024 20/08/2024

Contract or concession award notice – standard regime

Supplies - Services

1. Buyer

1.1. Buyer

Official name: Naviair

Email: ssj@naviair.dk

Legal type of the buyer: Body governed by public law

Activity of the contracting authority: General public services

Activity of the contracting entity: Airport-related activities

1.1. Buyer

Official name: Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit beschränkter Haftung (ACG)

Email: info@austrocontrol.at

Activity of the contracting entity: Airport-related activities

1.1. Buyer

Official name: Croatia Control Ltd (CCL)

Email: dg.office@crocontrol.hr

Activity of the contracting entity: Airport-related activities

1.1. Buyer

Official name: Luftfartsverket (LFV)

Email: lfv@lfv.se

Activity of the contracting entity: Airport-related activities

1.1. Buyer

Official name: AirNav Ireland

Email: info@airnav.ie

Activity of the contracting entity: Airport-related activities

1.1. Buyer

Official name: Navegação Aérea de Portugal — NAV Portugal

Email: geral@nav.pt

Activity of the contracting entity: Airport-related activities

2. Procedure

2.1. Procedure

Title: TopSky ATC One Upgrade and Service Agreement

Description: This notice is published by Naviair on behalf of itself and the following contracting entities/authorities: 1) Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit beschränkter Haftung (ACG), Schnirchgasse 17, 1030 Wien, Austria (AT); 2) Croatia Control Ltd (CCL), Rudolfa Fizira 2, Velika Gorica, Croatia (HR); 3) Luftfartsverket, Hospitalgatan 30,

S-601 79 Norrköping, Sweden (SE) 4) The Irish Air Navigation Service trading as AirNav Ireland, The Times Building, 11-12 D'Olier Street, Dublin 2, D02 T449, Ireland (IE) and 5) Navegação Aérea de Portugal — NAV Portugal, E.P.E., Rua D — Edifício 121, 1700-008, Lisbon (PT). The COOPANS members has entered an agreement with Thales LAS France S.A.S regarding an upgrade of the current TopSky ATC – the TopSky ATC One Upgrade and Service Agreement - to continue the delivery of certain software development, integration, maintenance and support services for the COOPANS TopSky ATC. An Agreed and Re-negotiated COOPANS Framework Agreement II (ARCFA II) on the maintenance and development of the COOPANS TopSky-ATC is in force between the parties.

Procedure identifier: bfed08fc-3c2f-4db2-98fe-d342461a2e31

Previous notice: 7d5766ff-8171-4eab-badc-e7eb68b9bdf0-01

Internal identifier: 2024

Type of procedure: Negotiated without prior call for competition

2.1.1. Purpose

Main nature of the contract: Services

Additional nature of the contract: Supplies

Main classification (cpv): 72000000 IT services: consulting, software development, Internet and support

Additional classification (cpv): 34962220 Air-traffic control systems, 48800000 Information systems and servers, 72100000 Hardware consultancy services, 72200000 Software programming and consultancy services, 72220000 Systems and technical consultancy services, 72222000 Information systems or technology strategic review and planning services, 72222300 Information technology services, 72240000 Systems analysis and programming services, 72250000 System and support services, 72263000 Software implementation services, 72265000 Software configuration services, 72267000 Software maintenance and repair services, 72300000 Data services, 72311000 Computer tabulation services, 72317000 Data storage services, 72320000 Database services, 72500000 Computer-related services, 72600000 Computer support and consultancy services

2.1.2. Place of performance

Country subdivision (NUTS): Byen København (DK011)

Country: Denmark

2.1.2. Place of performance

Country subdivision (NUTS): Östergötlands län (SE123)

Country: Sweden

2.1.2. Place of performance

Country subdivision (NUTS): Área Metropolitana de Lisboa (PT170)

Country: Portugal

2.1.2. Place of performance

Country subdivision (NUTS): Dublin (IE061)

Country: Ireland

2.1.2. Place of performance

Country subdivision (NUTS): Wien (AT130)

Country: Austria

2.1.2. Place of performance

Country subdivision (NUTS): Zagrebačka županija (HR065)

Country: Croatia

2.1.3. Value

Maximum value of the framework agreement: 350 000 000,00 EUR

2.1.4. General information

Call for competition is terminated

Additional information: All COOPANS members are currently using Thales TopSky-ATC, and as part of the continuation of safe operations and to achieve compliance to regulations COOPANS members intend to enter into TopSky ATC One Upgrade and Service Agreement with Thales. The COOPANS members' overall need is to ensure continued operation and maintenance and to refine the COOPANS TopSky ATC operating capability and incorporate the European wide requirements, coming from e.g., CP1 Regulation. The TopSky ATC One Upgrade and Service Agreement will ensure the maintenance, operation and to a certain extent incremental upgrade of the TopSky ATM systems used by the COOPANS members. The purpose of TopSky ATC One Upgrade and Service Agreement is to establish a framework agreement for services that for technical and intellectual property reasons can only be provided by Thales and are necessary to maintain efficient operations or compliance with regulatory requirements. However, the Agreement also provide COOPANS with mechanisms to integrate third-party systems, solutions and functionalities into TopSky-ATC; thereby providing COOPANS the opportunity to open up competition to other suppliers. To this end the TopSky ATC One Upgrade and Service Agreement sets out: (a) the core services, including: (i) the initial upgrade of the COOPANS Members TopSky – ATC system to the TopSky - ATC One Product, and associated support Services, during the Access Period 2024-2028; and (ii) potential subsequent upgrades to the Product, and associated support Services, during the subsequent Operational Period 2028-2036; (b) the Optional Services selected by COOPANS Members; and (c) the Additional Services (if any) that are specific to COOPANS Members' requirements. The COOPANS members have entered a Joint Public Procurement Agreement in accordance with Art. 39(4) of Dir. 2014/24/EU and art. 57(4) of Dir. 2014/25 and have designated NaviAir as responsible for finalising the TopSky ATC One Upgrade and Service Agreement, publishing notices in TED and other procurement related matters. The COOPANS members have chosen Danish public procurement law as applicable to all matters relating to TopSky ATC One Upgrade and Service Agreement.

Legal basis:

Directive 2014/25/EU

Applicable cross-border law: Directive 2014/25 EU

5. Lot

5.1. Lot: LOT-0000

Title: TopSky ATC One Upgrade and Service Agreement

Description: This notice is published by NaviAir on behalf of itself and the following contracting entities/authorities: 1) Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit beschränkter Haftung (ACG), Schnirchgasse 17, 1030 Wien, Austria (AT); 2) Croatia Control Ltd (CCL), Rudolfa Fizira 2, Velika Gorica, Croatia (HR); 3) Luftfartsverket, Hospitalgatan 30, S-601 79 Norrköping, Sweden (SE) 4) The Irish Air Navigation Service trading as AirNav Ireland, The Times Building, 11-12 D'Olier Street, Dublin 2, D02 T449, Ireland (IE) and 5) Navegação Aérea de Portugal — NAV Portugal, E.P.E., Rua D — Edifício 121, 1700-008, Lisbon (PT). The COOPANS members has entered an agreement with Thales LAS France S. A.S regarding an upgrade of the current TopSky ATC – the TopSky ATC One Upgrade and

Service Agreement - to continue the delivery of certain software development, integration, maintenance and support services for the COOPANS TopSky ATC. An Agreed and Re-negotiated COOPANS Framework Agreement II (ARCFA II) on the maintenance and development of the COOPANS TopSky-ATC is in force between the parties.

Internal identifier: 2024

5.1.1. Purpose

Main nature of the contract: Services

Additional nature of the contract: Supplies

Main classification (cpv): 72000000 IT services: consulting, software development, Internet and support

Additional classification (cpv): 34962220 Air-traffic control systems, 48800000 Information systems and servers, 72100000 Hardware consultancy services, 72200000 Software programming and consultancy services, 72220000 Systems and technical consultancy services, 72222000 Information systems or technology strategic review and planning services, 72222300 Information technology services, 72240000 Systems analysis and programming services, 72250000 System and support services, 72263000 Software implementation services, 72265000 Software configuration services, 72267000 Software maintenance and repair services, 72300000 Data services, 72311000 Computer tabulation services, 72317000 Data storage services, 72320000 Database services, 72500000 Computer-related services, 72600000 Computer support and consultancy services

Options:

Description of the options: The Agreement covers potential subsequent upgrades to the Product, and associated support Services, during the subsequent Operational Period 2028-2036; the Optional Services selected by COOPANS Members; and the Additional Services (if any) that are specific to COOPANS Members' requirements.

5.1.2. Place of performance

Country subdivision (NUTS): Byen København (DK011)

Country: Denmark

5.1.2. Place of performance

Country subdivision (NUTS): Östergötlands län (SE123)

Country: Sweden

5.1.2. Place of performance

Country subdivision (NUTS): Área Metropolitana de Lisboa (PT170)

Country: Portugal

5.1.2. Place of performance

Country subdivision (NUTS): Dublin (IE061)

Country: Ireland

5.1.2. Place of performance

Country subdivision (NUTS): Wien (AT130)

Country: Austria

5.1.2. Place of performance

Country subdivision (NUTS): Zagrebačka županija (HR065)

Country: Croatia

5.1.5. Value

Maximum value of the framework agreement: 350 000 000,00 EUR

5.1.6. General information

Procurement Project fully or partially financed with EU Funds.

The procurement is covered by the Government Procurement Agreement (GPA): yes

Additional information: All COOPANS members are currently using Thales TopSky-ATC, and as part of the continuation of safe operations and to achieve compliance to regulations COOPANS members intend to enter into TopSky ATC One Upgrade and Service Agreement with Thales. The COOPANS members' overall need is to ensure continued operation and maintenance and to refine the COOPANS TopSky ATC operating capability and incorporate the European wide requirements, coming from e.g., CP1 Regulation. The TopSky ATC One Upgrade and Service Agreement will ensure the maintenance, operation and to a certain extent incremental upgrade of the TopSky ATM systems used by the COOPANS members. The purpose of TopSky ATC One Upgrade and Service Agreement is to establish a framework agreement for services that for technical and intellectual property reasons can only be provided by Thales and are necessary to maintain efficient operations or compliance with regulatory requirements. However, the Agreement also provide COOPANS with mechanisms to integrate third-party systems, solutions and functionalities into TopSky-ATC; thereby providing COOPANS the opportunity to open up competition to other suppliers. To this end the TopSky ATC One Upgrade and Service Agreement sets out: (a) the core services, including: (i) the initial upgrade of the COOPANS Members TopSky – ATC system to the TopSky - ATC One Product, and associated support Services, during the Access Period 2024-2028; and (ii) potential subsequent upgrades to the Product, and associated support Services, during the subsequent Operational Period 2028-2036; (b) the Optional Services selected by COOPANS Members; and (c) the Additional Services (if any) that are specific to COOPANS Members' requirements. The COOPANS members have entered a Joint Public Procurement Agreement in accordance with Art. 39(4) of Dir. 2014/24/EU and art. 57(4) of Dir. 2014/25 and have designated Navair as responsible for finalising the TopSky ATC One Upgrade and Service Agreement, publishing notices in TED and other procurement related matters. The COOPANS members have chosen Danish public procurement law as applicable to all matters relating to TopSky ATC One Upgrade and Service Agreement.

5.1.15. Techniques

Framework agreement:

Framework agreement, without reopening of competition

Information about the dynamic purchasing system:

No dynamic purchase system

5.1.16. Further information, mediation and review

Review organisation: Danish Complaints Board for Public Procurement

Information about review deadlines: Pursuant to Section 7(3) of Executive Order No 593 of 2 June 2016 (Executive Order on the Danish Complaints Board for Public Procurement), a complaint arguing that the contracting authority has entered into a contract without prior publication of a contract notice in the Official Journal of the European Union, in case the contracting authority followed the procedure in Section 4 of Executive Order No 593 of 2 June 2016 (Executive Order on the Danish Complaints Board for Public Procurement), must be filed within 30 calendar days from the day after the day on which the contracting authority published a notice in the Official Journal of the European Union that the contracting authority had entered into the contract, provided that the notice contains the reasons for the contracting authority's decisions to enter into a contract without prior publication of a contract notice in the Official Journal of the European Union. Pursuant to Section 6(4) of Executive Order No 593 of 2 June 2016 (Executive Order on the Danish Complaints Board for Public Procurement) the

complainant must, at the latest at the same time as a complaint is submitted to the Danish Complaints Board for Public Procurement, notify the contracting authority in writing that the complaint has been submitted to the Danish Complaints Board for Public Procurement, and whether the complaint has been submitted during the period of 10 calendar days as stipulated in Section 4(1)(2) in Executive Order No 593 of 2 June 2016 (Executive Order on the Danish Complaints Board for Public Procurement).

Organisation providing information concerning the general regulatory framework for taxes applicable in the place where the contract is to be performed: Danish Customs and Tax Administration

Organisation providing information concerning the general regulatory framework for environmental protection applicable in the place where the contract is to be performed: The Danish Environmental Protection Agency

Organisation providing additional information about the procurement procedure: Naviair

Organisation providing offline access to the procurement documents: Naviair

Organisation providing more information on the review procedures: Danish Competition and Consumer Authority

Organisation whose budget is used to pay for the contract: AirNav Ireland, Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit beschränkter Haftung (ACG), Croatia Control Ltd (CCL), Luftfartsverket (LFV), Navegação Aérea de Portugal — NAV Portugal, Naviair

Organisation executing the payment: AirNav Ireland, Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit beschränkter Haftung (ACG), Croatia Control Ltd (CCL), Luftfartsverket (LFV), Navegação Aérea de Portugal — NAV Portugal, Naviair

Organisation signing the contract: AirNav Ireland, Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit beschränkter Haftung (ACG), Croatia Control Ltd (CCL), Luftfartsverket (LFV), Navegação Aérea de Portugal — NAV Portugal, Naviair

TED eSender: Mercell Holding ASA

6. Results

Value of all contracts awarded in this notice: 350 000 000,00 EUR

Maximum value of the framework agreements in this notice: 350 000 000,00 EUR

Approximate value of the framework agreements: 350 000 000,00 EUR

Direct award:

Justification for direct award: The contract can be provided only by a particular economic operator because of exclusive rights, including intellectual property rights

Other justification: TopSky ATC One Upgrade and Service Agreement can only be entered into with Thales, because: (i) Upgrade to the TopSky ATC One is required to maintain and operate ATM legacy system compliant with more recent EU regulations: The ATM system is the core IT system on which the COOPANS members are heavily dependent in providing their main service; that is safeguarding air traffic management free of any frictions and problems. The COOPANS members are not in the position to jeopardize their service and are required to uphold a safety standard to the utmost possible and therefore have to endeavour to maintain and operate the ATM legacy system. The COOPANS members run the TopSky ATM system in the configuration following the deliveries under the earlier ARCFA and ARCFA II and the original agreements for procuring the system as part of their ATM systems. The purpose of TopSky ATC One Upgrade and Service Agreement is to be able to maintain and operate the existing system, both in terms of necessary ongoing services but also in terms of the incremental developments which are meant to ensure a number of improvements of the existing system, including against the background of changing regulatory requirements that necessitate changes, Thales being the only possible provider of both. (ii) Thales is technically

and due to intellectual property rights the only supplier: Thales is technically the only supplier for the services which includes specific work on the existing system which consists of numerous interlinked functions. Due to the technical interoperation between different functions within the existing system upgrading one function may trigger a need to implement changes in other functions to ensure that the entire system continues to work seamlessly and "speak the same language". In addition to this, Thales still holds IPR to the TopSky ATM system delivered so far.

6.1. Result lot identifier: LOT-0000

Winner selection status: At least one winner was chosen.

Framework agreement:

Maximum value of the framework agreement: 350 000 000,00 EUR

Re-estimated value of the framework agreement: 350 000 000,00 EUR

6.1.2. Information about winners

Winner:

Official name: Thales LAS France S.A.S

Tender:

Tender identifier: 2024

Identifier of lot or group of lots: LOT-0000

Value of the tender: 350 000 000,00 EUR

The tender was ranked: no

Subcontracting: Not yet known

Contract information:

Identifier of the contract: 2024

Title: TopSky ATC One Upgrade and Service Agreement

Date on which the winner was chosen: 07/03/2024

The contract is awarded within a framework agreement: yes

Notice that created the framework agreement: 160707-2024

Organisation signing the contract: AirNav Ireland, Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit beschränkter Haftung (ACG), Croatia Control Ltd (CCL), Luftfartsverket (LFV), Navegação Aérea de Portugal — NAV Portugal, Naviair

6.1.4. Statistical information

Summary of the review requests the buyer received:

Number of complainants: 0

Received tenders or requests to participate:

Type of received submissions: Tenders

Number of tenders or requests to participate received: 1

8. Organisations

8.1. ORG-0001

Official name: Naviair

Registration number: 26059763

Postal address: Naviair Allé 1

Town: Kastrup

Postcode: 2770

Country subdivision (NUTS): Københavns omegn (DK012)

Country: Denmark

Contact point: Sigurd Slot Jacobsen

Email: ssj@naviair.dk

Telephone: +45 2935 6590

Internet address: <https://www.naviair.dk/>

Buyer profile: <https://eu.eu-supply.com/ctm/company/companyinformation/index/290627>

Roles of this organisation:

Buyer

Group leader

Organisation providing additional information about the procurement procedure

Organisation providing offline access to the procurement documents

Organisation signing the contract

Organisation whose budget is used to pay for the contract

Organisation executing the payment

8.1. ORG-0002

Official name: Danish Complaints Board for Public Procurement

Registration number: 37795526

Postal address: Toldboden 2

Town: Viborg

Postcode: 8800

Country subdivision (NUTS): Vestjylland (DK041)

Country: Denmark

Email: kflu@naevneneshus.dk

Telephone: +45 72405600

Roles of this organisation:

Review organisation

8.1. ORG-0003

Official name: The Danish Environmental Protection Agency

Registration number: 25798376

Postal address: Tolderlundsvej 5

Town: Odense C

Postcode: 5000

Country subdivision (NUTS): Fyn (DK031)

Country: Denmark

Email: info@mst.dk

Telephone: +4572544000

Internet address: <https://eng.mst.dk/>

Roles of this organisation:

Organisation providing information concerning the general regulatory framework for environmental protection applicable in the place where the contract is to be performed

8.1. ORG-0004

Official name: Danish Competition and Consumer Authority

Registration number: 10294819

Postal address: Carl Jacobsensvej 35

Town: Valby

Postcode: 2500

Country subdivision (NUTS): Byen København (DK011)

Country: Denmark

Email: kfst@kfst.dk

Telephone: +45 41715000

Roles of this organisation:

Organisation providing more information on the review procedures

8.1. ORG-0005

Official name: Danish Customs and Tax Administration

Registration number: 39883686

Postal address: Nykøbingvej 76, bygn. 45

Town: Sakskøbing

Postcode: 4990

Country subdivision (NUTS): Vest- og Sydsjælland (DK022)

Country: Denmark

Email: info@skat.dk

Telephone: +4572222827

Internet address: <https://skat.dk/en-us/contact-us/businesses>

Roles of this organisation:

Organisation providing information concerning the general regulatory framework for taxes applicable in the place where the contract is to be performed

8.1. ORG-0006

Official name: Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit beschränkter Haftung (ACG)

Registration number: ATU 37259408

Postal address: Schnirchgasse 17

Town: Wien

Postcode: 1030

Country subdivision (NUTS): Wien (AT130)

Country: Austria

Email: info@austrocontrol.at

Telephone: +43 517030

Internet address: <https://www.austrocontrol.at/>

Roles of this organisation:

Buyer

Organisation signing the contract

Organisation whose budget is used to pay for the contract

Organisation executing the payment

8.1. ORG-0007

Official name: Croatia Control Ltd (CCL)

Registration number: 1475886

Postal address: Rudolfa Fizira 2

Town: Velika Gorica

Postcode: 10410

Country subdivision (NUTS): Zagrebačka županija (HR065)

Country: Croatia

Email: dg.office@crocontrol.hr

Telephone: +385 1 6259 400

Internet address: <https://www.crocontrol.hr/en/>

Roles of this organisation:

Buyer

Organisation signing the contract

Organisation whose budget is used to pay for the contract

Organisation executing the payment

8.1. ORG-0008

Official name: Luftfartsverket (LFV)

Registration number: LFV

Postal address: Hospitalsgatan 30

Town: Norrköping

Postcode: 601 79

Country subdivision (NUTS): Östergötlands län (SE123)

Country: Sweden

Email: lfv@lfv.se

Telephone: +46011-19 20 00

Internet address: <https://lfv.se/>

Roles of this organisation:

Buyer

Organisation signing the contract

Organisation whose budget is used to pay for the contract

Organisation executing the payment

8.1. ORG-0009

Official name: AirNav Ireland

Registration number: AirNav Ireland

Postal address: 11-12 D'Olier Street

Town: Dublin

Country subdivision (NUTS): Dublin (IE061)

Country: Ireland

Email: info@airnav.ie

Telephone: +353 1 603 1400

Internet address: <https://www.airnav.ie/>

Roles of this organisation:

Buyer

Organisation signing the contract

Organisation whose budget is used to pay for the contract

Organisation executing the payment

8.1. ORG-0010

Official name: Navegação Aérea de Portugal — NAV Portugal

Registration number: NAV Portugal

Postal address: E.P.E., Rua D — Edifício 121

Town: Lisbon

Postcode: 1700-008

Country subdivision (NUTS): Área Metropolitana de Lisboa (PT170)

Country: Portugal

Email: geral@nav.pt

Telephone: +351 21 855 3100

Internet address: <https://www.nav.pt/>

Roles of this organisation:

Buyer

Organisation signing the contract

Organisation whose budget is used to pay for the contract

Organisation executing the payment

8.1. ORG-0011

Official name: Thales LAS France S.A.S
Registration number: 319 159 877 00111
Postal address: 2 Avenue Gay Lussac
Town: Elancourt
Postcode: 78990
Country subdivision (NUTS): Paris (FR101)
Country: France
Email: contact.info@fr.thalesgroup.com
Telephone: +33 1 34 81 60 00
Internet address: <https://www.thalesgroup.com/en>

Roles of this organisation:

Tenderer

Winner of these lots: LOT-0000

8.1. ORG-0012

Official name: Merzell Holding ASA
Registration number: 980921565
Postal address: Askekroken 11
Town: Oslo
Postcode: 0277
Country subdivision (NUTS): Oslo (NO081)
Country: Norway
Contact point: eSender
Email: publication@merzell.com
Telephone: +47 21018800
Fax: +47 21018801
Internet address: <http://merzell.com/>

Roles of this organisation:

TED eSender

Notice information

Notice identifier/version: 9fcdbdf1-32fd-44e7-8e04-a3448276aa21 - 01

Form type: Result

Notice type: Contract or concession award notice – standard regime

Notice subtype: 30

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