

Denmark-Ballerup: Satellite-related communications equipment

OJ S 188/2023 29/09/2023

Contract notice

Supplies

Directive 2009/81/EC

Section I: Contracting authority/entity

I.1. Name and addresses

Official name: Danish Ministry of Defence Acquisition and Logistics Organisation

Postal address: Lautrupbjerg 1-5

Town: Ballerup

Postal code: 2750

Country: Denmark

Contact person: Christian Damsgaard Kristensen

E-mail: fmi-sd-acv04@mil.dk

Telephone: +45 51648769

Internet address(es):General address of the contracting authority/entity: www.fmi.dkElectronic access to information: <https://www.ethics.dk/ethics/eo#/93912954-54e1-4f5d-aba5-902ce30b22f4/homepage>Electronic submission of tenders and requests to participate: <https://www.ethics.dk/ethics/eo#/93912954-54e1-4f5d-aba5-902ce30b22f4/homepage>**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**

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

I.3. Main activity

Defence

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

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**

Supply and sustainment of iDirect hardware and software

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

Supplies

Purchase

NUTS code DK0 Denmark

II.1.3. Information about framework agreement

The procurement involves the establishment of a framework agreement

II.1.4. Information about framework agreement

Framework agreement with a single operator

Duration of the framework agreement

Duration in years: 12

Justification for a framework agreement, the duration of which exceeds seven years: It is DALO's assesment that there is a limited opportunity for exposing the framework agreement for competition at a later moment, and that DALO will risk ending up in a sole supplier situation, before DALO's capacity of iDirect equipment has to be replaced on an overall level, if the duration of the agreement is not set at potentially 12 years.

Estimated total value of purchases for the entire duration of the framework agreement

Estimated value excluding VAT: 2 200 000,00 EUR

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

In order to ensure sustained operation (24 hours a day, 365 days a year) of the iDirect equipment, DALO wishes to establish a framework agreement covering the supply and sustainment of iDirect hardware and software, including licenses, training, audit, support, etc.. The framework agreement shall ensure that DALO can acquire the necessary iDirect hardware, software, and support to operate our iDirect equipment.

II.1.6. CPV code(s)

32530000 Satellite-related communications equipment, 32531000 Satellite communications equipment, 32552410 Modems, 32570000 Communications equipment, 32571000 Communications infrastructure

II.1.7. Information about subcontracting

The tenderer has to indicate any change occurring at the level of subcontractors during the execution of the contract

II.1.8. Lots

This contract is divided into lots: no

II.1.9. Information about variants

Variants will be accepted: no

II.2. Scope of the procurement

II.2.1. Total quantity or scope

Estimated value excluding VAT: 2 200 000,00 EUR

II.2.2. Information about options

Options: yes

Description of options: The Agreement shall expire without notice 7 years after commencement. In addition to this, DALO shall be entitled to renew the agreement on the same terms for two continuous periods for a total of 5 years, the first period for 3 years, and the second period for 2 years.

II.2.3. Information about renewals

This contract is subject to renewal: yes

Number of possible renewals: Range: between 36 and 60

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

in months: 36 (from the award of the contract)

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

Section III: Legal, economic, financial and technical information

III.1. Conditions related to the contract

III.1.1. Deposits and guarantees required

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

Reference is made to the procurement documents regarding payment terms. Invoicing must be done in accordance with the applicable Danish legislation on public payments. At present, this is Danish consolidation act. no. 798 of June 2007 which requires invoicing to be done electronically. Exact terms will be stated in the contract.

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. If the contract is awarded to a group of suppliers (e.g. a consortium), the participants are required to undertake joint and several liabilities and to appoint one supplier to represent the group.

III.1.4. Other particular conditions to which the performance of the contract is subject, in particular with regard to security of supply and security of information

The framework agreement contains requirements regarding labour clause, CSR requirements, international sanctions as well as provisions regarding risk assessment and follow-up actions. In the procurement of the framework agreement the risk profile is assessed to the following follow-up action (risk level): C

Reference is made to appendix B and appendix B.1 for further information.

DALO demands that the supplier at company level must possess the appropriate facility security clearance at HEMMELIGT (HEM or the equivalent English-language classification SECRET (including EU and NATO SECRET)). The security clearance must be maintained throughout the term of the framework agreement. For further details see the framework agreement, Appendix J.

DALO demands that any person taking part in the performance of the framework agreement must possess the appropriate personnel security clearance at HEMMELIGT (HEM or the equivalent English-language classification SECRET (including EU and NATO SECRET)). The security clearance must be maintained throughout the term of the framework agreement. For further details see the framework agreement, Appendix J.

It is the candidate's own responsibility to obtain the security clearance required to perform the framework agreement.

III.1.5. Information about security clearance

III.2. Conditions for participation

III.2.1. Personal situation

Criteria regarding the personal situation of economic operators (that may lead to their exclusion) including requirements relating to enrolment on professional or trade registers

List and brief description of conditions: When submitting the offer (but not the request for participation/pre-qualification), the tenderer must submit a declaration stating that the tenderer (1) is not subject to any of the reasons for exclusion stated in art. 39(1) of the Defence and Security Directive (2009/81/EC) and section 134 a of The Public Procurement Act, and (2) to which degree the tenderer has unpaid overdue debt in relation to tax, duties or social security contributions under Danish law or under the law of the country in which the tenderer is established. A template for the declaration will be provided with the procurement documents, and the tenderer is encouraged – but not obliged - to use it. If the tenderer is composed of a group of entities (e.g. consortium), including temporary joint ventures, a declaration must be submitted for each participating entity.

Be advised that DALO shall exclude a tenderer which has unpaid overdue debt of DKK 100,000 or more to public authorities in relation to tax, duties or social security contributions under Danish law or under the law of the country in which the tenderer is established, unless the tenderer has provided collateral for the overdue debt, will provide collateral for the overdue debt or has entered into an installment agreement, which has not been breached at the time of submitting the offer. Exclusion is pursuant to the reasons for exclusion in the Defence and Security Directive, art. 39(2), paras f and g.

However, DALO may not exclude a tenderer which has provided sufficient documentation that the tenderer is reliable. DALO will decide whether the documentation is sufficient, hence the tenderer is considered reliable, based on guidelines equal to the guidelines provided for in Section 138(1-4) of the Danish Act no. 1564 of 15.12.2015 – The Public Procurement Act.

III.2.2. Economic and financial ability

Criteria regarding the economic and financial standing of economic operators (that may lead to their exclusion)

List and brief description of conditions: Annual reports or excerpts hereof or other documentation stating the candidate's annual turnover for the last 2 financial years, if publication of annual reports is required under the law of the country in which the candidate is established, and to the extent such information is available.

Minimum level(s) of standards possibly required: The candidate must have had an annual turnover of at least EUR 12.000.000 in each of the last 2 financial years. If the turnover is not stated in said currency, DALO will calculate the turnover based on the official exchange rate on the date this notice was published.

If the candidate is composed of a group of entities (e.g. consortium), including temporary joint ventures, the annual turnover is calculated as the sum of all the participants annual turnover in each of the last 2 financial years available.

If the candidate relies on the economic and financial standing of an entity or entities, the annual turnover will be calculated as the sum of the candidate's annual turnover and the entity or entities' annual turnover in each of the last 2 financial years available.

Please note that a candidate may rely on the economic and financial standing of other entities (e.g. a parent or sister company or a sub supplier), irrespective of the legal nature of the relations between the candidate and the entity or entities on which the candidate relies.

III.2.3. Technical and/or professional capacity

Criteria regarding the technical and/or professional ability of economic operators (that may lead to their exclusion)

List and brief description of conditions:

A list of the most important similar deliveries (references), cf. section II.1.5), carried out within the past 5 (five) years prior to the dead-line for the request to participate.

Only the deliveries (references) performed at the time of the deadline for the request to

participate will be considered when assessing which candidate has documented the most relevant previous deliveries, cf. section IV.1.2). If the delivery in question is ongoing, it is only the part of the services and supplies carried out within the past 5 (five) years and completed at the time of the deadline for the request to participate which will be included in the assessment of the delivery (reference). Consequently, if a part of the services and supplies has not been carried out within the past 5 (five) years or if a part of the services and supplies has not been completed at the time of the dead-line for the request to participate, this particular part will not be included in the assessment of the delivery (reference). Therefore, it is important that the candidate/tenderer clearly states which part (e.g. with regard to size, value, quantity or volume) of an ongoing delivery (reference) that has been carried out within the past 5 (five) years.

The list should preferably include a short description of each delivery. The description of the deliveries should include a clear indication of which specific parts the deliveries are similar to the services and supplies, described in section II.1.5, in regards to the lot or lots which the candidate has requested to participate. The description should also including a description of the candidates participation/role in the performance of the deliveries. The description should also contain information on the date of the deliveries, the size/quantity/volume and value of the deliveries, the recipients of the deliveries (specific names/countries are preferred, but not necessary; if no country specific information is included, the candidate is asked to provide as much generic information as possible about the delivery). When specifying the date for the deliveries, the candidate should state the date for the commencement and completion of the deliveries. If this is not possible, e.g. because the delivery in question is performed on an ongoing basis according to a framework agreement, the description of the deliveries should nonetheless contain information on how the date is set.

The list must contain a maximum of 5 previous deliveries, whether the candidate is one entity, composed of a group of entities (e.g. consortium), including temporary joint ventures, or relies on the technical and professional capacity of other entities. If the list contains more than 5, DALO will pick the most relevant deliveries for the evaluation of the candidates abilities in the pre-qualification.

Please note that a candidate may rely on the technical and professional capacity of other entities (e.g. a parent or sister company or a sub supplier), irrespective of the legal nature of the relations between the candidate and the entity or entities on which the candidate relies.

Minimum level(s) of standards possibly required

The candidate must demonstrate experience with as a minimum two similar deliveries within the past 5 years, prior to the deadline for the request to participate. A “similar delivery” shall be understood as supply and sustainment of iDirect hardware and software to an entity similar to DALO.

III.2.4. Information about reserved contracts

III.3. Conditions specific to services contracts

III.3.1. Information about a particular profession

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

Negotiated

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

Envisaged number of candidates 3

Objective criteria for choosing the limited number of candidates: The limitation of candidates will be based on an evaluation of which candidates have documented the most relevant previous deliveries in comparison to the contract/purchases de-scribed in section II.1.5) above. In the evaluation, DALO will take into account the nature and quantity of the previous deliveries. The evaluation will be based on the list of references submitted by the candidates according to section III.2.3). Please note that any ambiguities and/or incomprehensibilities in the information submitted may be regarded negatively in the evaluation when selecting the limited numbers of candidates.

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

Recourse to staged procedure to gradually reduce the number of solutions to be discussed or tenders to be negotiated no

IV.2. Award criteria

IV.2.1. Award criteria

Lowest price

IV.2.2. Information about electronic auction

IV.3. Administrative information

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

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

30.10.2023 - 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

English. Danish.

Section VI: Complementary information

VI.1. Information about recurrence

This is a recurrent procurement: no

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

Regarding section II.2.1): The estimated value of the framework agreement is EUR 2.200.000 and the maximum value of the framework agreement is EUR 6.500.000. The reason for the difference between the stated values is the uncertainty regarding the final value of the framework agreement, cf. below. Hence, the estimated value constitutes DALO's most qualified estimate of the value of the framework agreement at the present moment, while the maximum value constitutes the maximum value of purchases under the framework agreement in its duration.

The uncertainty regarding the final value of the framework agreement is primarily caused by uncertainty regarding the Danish Defence' operational needs through the duration of the framework agreement, including uncertainty about specific deployments and mission areas in particular, which is not possible to foresee for the entire span of the framework agreement. Thus, changes to the operational needs of the Danish Defence compared to the existing situation and needs may cause a significant larger expenditure on the framework agreement than what is expected at the moment.

This tender is conducted according to the negotiated procedure, cf. directive 2009/81/EC, article 26. The candidates who will be invited to submit tenders will receive further practical information regarding the negotiated procedure in the Instructions to Tenderers.

Tenderers are expressly made aware that DALO reserves the right to regard the INDO as a best and final offer (BAFO) and to close the tender procedure and award the Contract on the basis of the submitted INDO, ie. without conducting any negotiations.

Please note, that each candidate can only submit one request for participation. If the same legal entity is a part of or in any other way participates in several applications, e.g. submits his own application and at the same time participates in a consortium which also applies, the candidates shall ensure that the same legal entity's participation does not provide for opportunity for mutual coordination of their applications and offers. DALO reserves the right to request the candidates to establish and reassure DALO that the same legal entity's participation does not threaten the transparency and distort competition between the tenderers. DALO reserves the right – but is not obliged – to use remedies equal to the remedies provided for in Section 159(5) of the Danish Act no. 1564 of 15.12.2015, the Public Procurement Act, if applications or tenders do not fulfil the formalities of the procurement documents.

DALO demands that the candidate/tenderer and each of the legal entities whose economic and financial capacities the candidate/tenderer relies on undertake joint and several liability for the performance of the contract.

Candidates are asked to submit their request to participate via ETHICS. The permalink is stated in section I.1). The request to participate cannot be submitted by e-mail.

DALO have prepared a prequalification questionnaire which candidates are strongly encouraged to use when submitting their applications. The questionnaire contains questions, forms and templates for providing information etc. in accordance with the requirements in this Contract Notice. However, it is emphasized that it is the sole responsibility of the candidate that the information provided fulfils the requirements.

The questionnaire is available via ETHICS. The permalink is stated in section I.1).

According to the EU defence directive, a candidate may rely on the economic and financial standing and/or technical and/or professional capacity of other entities, regardless of the legal nature of the links with the entities. If a candidate wants to rely on other entities and wishes that the capacity of other entities is taken into account when DALO assesses the suitability of the candidate, the candidate must prove that the other entities will and shall put the relevant resources at the disposal of the candidate. A template for a declaration from the supporting entity to this effect is included in the prequalification questionnaire referred to above.

The framework agreement contains requirements regarding labour clause, CSR requirements,

international sanctions as well as provisions regarding risk assessment and follow-up actions. Upon prequalification application the applicant is asked to sign a self-declaration, on compliance with labour clauses, CSR obligations and international sanctions.

If the self-declaration is not signed, the applicant will be excluded from participation in the procurement process.

DALO has uploaded a template which must be used as a statement. The template is included in the abovementioned prequalification questionnaire (PQQ).

When associations of several entities (ie. Consortiums), including temporary joint ventures, participate as one tenderer, the self-declaration must be filled out separately for each of the participating entities.

The Agreement is entered into by DALO. However, all divisions of the Danish Ministry of Defence, including all units of the Danish Defence subject to the command of the Chief of Defence is entitled to use the Agreement.

Attention is drawn to the Investment Screening Act (Act. No. 842 of 10 May 2021) according to which certain companies are required to apply for permission from the Danish Business Authority prior to entering into "special financial agreements" within particularly sensitive sectors and activities. Further information can be obtained from <https://businessindenmark.virk.dk/guidance/erst-activities-covered-by-the-investment-screening-act/Special-financial-agreements/>.

Attention is drawn to Article 5k in Regulation (EU) No 833/2014 as amended by Regulation (EU) 2022/576 which applies for the tender procedure. The provision contains a prohibition against award of contracts to Russian companies and Russian controlled companies etc. (reference is made to Article 5k, section 1, for the exact delimitation of the actors covered by the prohibition). DALO may at any time during the tender process require that the candidates /tenderers prove that they are not covered by the prohibition, for example by requiring documentation regarding the candidates'/tenderers' and any subcontractors' place of establishment and ownership.

VI.4. Procedures for review

VI.4.1. Review body

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

National registration number: Nævnenes Hus

Postal address: Toldboden 2

Town: Viborg

Postal code: 8800

Country: Denmark

E-mail: klfu@naevneneshus.dk

Telephone: +45 72405600

Internet address: www.klfu.naevneneshus.dk/

VI.4.2. Review procedure

Precise information on deadline(s) for review procedures: Pursuant to the Danish Consolidation Act no. 593 of 2 June 2016 on the Complaints Board for Public Procurement (available at www.retsinformation.dk), the following time limits for filing a complaint apply: Complaints regarding a candidate not being pre-qualified must be filed with The Complaints Board for Public Procurement within 20 calendar days starting the day after the contracting authority has sent notification to the candidates involved, cf. § 7(1) of the Act on the Complaints Board for Public Procurement, provided that the notification includes an account of the reasons for the decision.

Other complaints must in accordance with § 7(2) of the Act on the Complaints Board for Public

Procurement be filed with The Complaints Board for Public Procurement within:

1) 45 calendar days after the contracting authority has published a contract award notice in the Official Journal of the European Union. The time limit is calculated from the day after the publication date.

2) 30 calendar days starting the day after the contracting authority has notified the tenderers in question, that the contracting authority has entered into a contract based on a framework agreement through re-opening of competition or a dynamic purchasing system, provided that the notification includes an account of the reasons for the decision.

3) 6 months after the contracting authority has entered into the framework agreement starting the day after the contracting authority has sent notification to the candidates and tenderers involved, cf. § 2(2).

The complainant must inform the contracting authority of the complaint in writing at the latest simultaneously with the lodge of the complaint to The Complaints Board for Public Procurement stating whether the complaint has been lodged in the stand-still period, cf. § 6(4) of the Act on The Complaints Board for Public Procurement. If the complaint has not been lodged in the stand-still period, the complainant must also state whether it is requested that the appeal is granted delaying effect, cf. § 12(1) ..

Contact information for The Complaints Board for Public Procurement is stated in section VI.4.1).

The Complaints Board for Public Procurement's own guidance note concerning complaints is available on the website stated in section VI.4.1).

VI.4.3. 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

25.9.2023