

Denmark-Copenhagen: Engineering design services for mechanical and electrical installations for buildings**OJ S 240/2021 10/12/2021****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: DK011 Byen København
Postal code: Copenhagen V
Country: Denmark
Contact person: Anne Bøgh Johansen
E-mail: ajo@femern.dk
Internet address(es):
Main address: www.femern.com

I.4. Type of the contracting authority

Body governed by public law

I.5. Main activity

Other activity: In 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 design services, electrical and mechanical systems, E&M Consultant

II.1.2. Main CPV code

71321000 Engineering design services for mechanical and electrical installations for buildings

II.1.3. Type of contract

Services

II.1.4. Short description

On 29 June 2011 the contract notice (no [2011/S 122-202627](#)) concerning the framework agreement for design services, electrical and mechanical systems, E&M consultant, was published in TED. The framework agreement was awarded to the economic operator named FEM Consult JV, and the contract award notice (no [2012/S 18-028333](#)) was published on 27 January 2012. By notice (no [2021/S 223-587901](#)) Femern A/S announced Femern A/S'

intention to prolong the existing framework agreement between Femern A/S and FEM Consult JV for a period of 4 years and 4 months, equal to the period of suspension of the framework agreement due to delay in the approval process in Germany. After this (and the expiry of stand still) the framework agreement has been prolonged for a period of 4 years and 4 months.

II.1.6. Information about lots

This contract is divided into lots: no

II.1.7. Total value of the procurement

Value excluding VAT: 25 000 000,00 EUR

II.2. Description

II.2.2. Additional CPV code(s)

71334000 Mechanical and electrical engineering services

II.2.3. Place of performance

NUTS code: DK011 Byen København

Main site or place of performance: Copenhagen

II.2.4. Description of the procurement

On 29 June 2011 the contract notice (no [2011/S 122-202627](#)) concerning the framework agreement for design services, electrical and mechanical systems, E&M consultant, was published in TED. The framework agreement was awarded to the economic operator named FEM Consult JV, and the contract award notice (no [2012/S 18-028333](#)) was published on 27 January 2012. By notice ([2021/S 223-587901](#)) Femern A/S announced Femern A/S' intention to prolong the existing framework agreement between Femern A/S and FEM Consult JV for a period of 4 years and 4 months, equal to the period of suspension of the framework agreement due to delay in the approval process in Germany. After this (and the expiry of stand still) the framework agreement has been prolonged for a period of 4 years and 4 months.

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: yes

Description of options:

The existing framework agreement contains the following options:

- 1) Tender period
- 2) Review of contractor's design
- 3) Inspection of the works and managing of implementation of E&M interfaces
- 4) O&M reporting and follow up

provisional timetable for recourse to these options: in months: 96 (from award of the contract)

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 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:

On 29 June 2011 the contract notice (no [2011/S 122-202627](#)) concerning the framework agreement for design services, electrical and mechanical systems, E&M consultant, was published in TED. The framework agreement was awarded to the economic operator named FEM Consult JV, and the contract award notice (no [2012/S 18-028333](#)) was published on 27 January 2012. By notice (no [2021/S 223-587901](#)). Femern A/S announced Femern A/S' intention to prolong the existing framework agreement between Femern A/S and FEM Consult JV for a period of 4 years and 4 months, equal to the period of suspension of the framework agreement due to delay in the approval process in Germany. After this (and the expiry of stand still) the framework agreement has been prolonged for a period of 4 years and 4 months. The prolongation of the framework agreement between Femern A/S and FEM Consult JV without a new procurement procedure falls under the Danish Public Procurement Act section 183, cf. further below. Section 183 of the Danish Public Procurement Act, 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 regards to the German plan approval the administrative procedure in Germany has been subject to massive delays, i.a. 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 the delay in obtaining the necessary plan approval in Germany it was decided in September 2015 to suspend the framework agreement until January 2020, i.e. a period of 4 years and 4 months. 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.

During the suspension period of 4 years and 4 months no services was delivered under the framework agreement and the prolongation of the framework agreement merely equals the suspension period and is found necessary in order to finalize the initially contemplated work under the existing framework agreement. FEM Consult JV 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.

Furthermore the prolongation will not result in a price increase higher than 50% of the value of the original 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 223-587901](#)

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

02/12/2021

V.2.2. Information about tenders

Number of tenders received: 1

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

V.2.3. Name and address of the contractor

Official name: FEM Consult JV

Postal address: Lyskær 3F, 4.

Town: Herlev

NUTS code: DK012 Københavns omegn

Postal code: 2730

Country: Denmark

The contractor is an SME: no

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

Total value of the contract/lot: 25 000 000,00 EUR

V.2.5. Information about subcontracting

The contract is likely to be subcontracted
Short description of the part of the contract to be subcontracted:

Value or proportion of the contract likely to be subcontracted to third party is not know

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 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 total contract value including all options as estimated in the initial contract notice [2012/S 018-028333](#). The prolongation of the framework

agreement merely equals the suspension period, cf. section IV.1.1, hence the total value of the contract is not expected to be affected by the prolongation.

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://naevneneshus.dk/start-din-klage/klagenaevnet-for-udbud/>

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

06/12/2021