

# Procedural Guide

EU - tender procedure

**Agreement for the  
“Provision of a Platform Supply Vessel”**

**Negometrix tender number 133307**

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hereinafter referred to as "TenneT", "Client" or "contracting entity"

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## **1 GENERAL INFORMATION**

### **1.1 General Set-up**

The tender procedure is divided into three sequential phases that are described below:

#### **1.1.1. Call for competition phase (also “selection phase”)**

The tenderer has to submit all documents stipulated in the EU-announcement and Negometrix via Negometrix in the section “Questionnaires” under section “Call for competition” in order to become eligible for invitation to the offer phase of the tender.

#### **1.1.2. Offer phase**

After having qualified for the offer phase, the tenderer has to submit a complete and binding initial offer that includes the commented contract proposal, the completed price-sheet, deviation list (deviations to Annex 1) and all further tender-specific documents requested via Negometrix in the section “Questionnaires” under section “Offer phase”.

#### **1.1.3. Negotiation phase**

The offers will be evaluated with regards to the award criteria laid out within the EU Announcement under sections III. 1.1) – III. 1.3). The three offers providing the best cost-performance ration will be chosen and become eligible to participate in the negotiations during which the offer providing the overall best cost-performance ration will be determined. The winner will be awarded with the contract.

### **1.2 Purpose of the tender documents**

The purpose of the tender documents is to describe the services (Provision of a Platform Supply Vessel) to be awarded and TenneT’s minimum requirements w. r. t. these services. The tender documents also specify requirements for the documents to be submitted, which form the basis for the examination and evaluation of the tenderers’ qualifications. The tender documents also contain a description of some essential provisions of the contract to be concluded between the contracting entity and the successful tenderer. In addition, tenderers get an overview about of the general tendering procedure and its phases.

TenneT reserves the right to specify, supplement, amend or delete information contained in these tender documents on the planned tender procedure and the requirements for the offers. In such cases, it will inform the tenderers about this via Negometrix in due time.

### **1.3 Guarantee, assurance, warranty**

The contracting entity does not assume any guarantees, assurances or warranties for the information contained in the tender documents. The scope of guarantees, assurances and warranties as well as the other rights and obligations with regard to the subject matter of the project, as well as any legal consequences resulting from the breach of such guarantees, assurances and warranties, result exclusively from the draft contract submitted as part of the tender documents and the contractual minimum conditions.

The submission of an offer to the contracting entity shall not give rise to any obligations on the part of the contracting entity.

### **1.4 Subject matter and objective of the tender**

The aim of this tender is to conclude a contract for the provision of a Platform Supply Vessel and the respective crew. The winning contractor will provide said services for the next 36 months. The contract expires after 36 months, unless TenneT requests an extension of the contract, latest 3 months before expiration. The contract can be extended twice, each time by one year. TenneT plans an actual commencement of service (commencement of work) from 15 March 2020, whereby, irrespective of the conclusion of the contract the agreed contract period begins.

### **1.5 Equal Treatment of tenderers**

TenneT shall ensure that all tenderers are treated equally in the course of the whole tender procedure. TenneT will not pass on offers or confidential information of one negotiating party to other negotiating parties and will only use this information in the course of the tendering procedure for own evaluation purposes.

TenneT reserves the right to exclude tenderers who violate essential points of this guideline.

## **1.6 Information / Tender Documents**

The tenderer will find all necessary tender documents for download in Negometrix under tender no **133307**. Information provided to tenderers in the course of this tender procedure as well as the tender documents shall be taken as a basis for the preparation of the offer. Later replies by the contracting entity to questions, specific clarifications, references or procedural letters with regard to the tender that supplement, clarify or amend the tender documents shall take precedence over these tender documents.

## **1.7 Dates and submission of offer documents**

Tenderers are obliged to upload their complete offers via Negometrix only. The offer has to be handed in via Negometrix latest until:

**Date: 20.12.2019**

**Local Time: 14:00 o'clock (CET)**

Offers submitted **late** cannot be accepted, unless the bidder is not responsible for this! These kinds of reasons must be substantiated by the applicant. In case of technical problems, the applicant can consult the Negometrix Helpdesk.

The schedule of this tender is published in Negometrix under section "schedule" and gives an overview about the different phases of the tender. The schedule has been prepared on the basis of the current situation to the best of the contracting entity's knowledge and belief.

TenneT reserves the right to change this schedule during the course of the procedure whenever necessary, in particular to extend deadlines provided if this proves necessary for the proper conduct of the tender procedure. In such cases, all tenderers will be informed accordingly via Negometrix.

## **1.8 Instructions on the submission of offers**

All applicants that successfully qualify for participation in the tender (offer phase) are requested to submit an offer. All the information provided must be taken into account when preparing the offer. The Client will only consider offers that are submitted complete and on time via Negometrix. Postal as well as digital submissions aside from Negometrix are not permitted and

may lead to exclusion from the tender process. All tender documents (legal, commercial, technical) shall not be changed.

The following instructions must be taken into account when preparing and submitting an offer:

- The offer (complete set of required documents) must be uploaded in the form of (scanned) original signed letters and forms as well as the other required documents in digital form in a standardised data format (e.g., PDF or MS Office format) exclusively via the platform Negometrix. Postal as well as digital submissions outside of Negometrix are not permitted and will lead to exclusion from the tendering procedure. All offer documents (cover letter and remaining documents in digital form) must be made fully available to the contracting entity via the Negometrix platform by the given deadline, 20.12.2019 (14:00 CET). The respective file names (incl. stored directory structure) may not contain more than 99 characters and shall be made in accordance with the structure of the tender documents. Special characters should be avoided in file names.
- All tender documents provided by TenneT (legal, commercial, technical, SHE) may not be changed, except the contract draft which shall be annotated by the tenderer before in Track Change Mode, Annex 2 (Deviation List), Annex 3 (Price Sheet), Annex 10 (Operational Limits) and Annex 11 (Confirmation of Certificates PSV) which need to be completed. In addition to the documents provided by TenneT with this invitation to tender, only the comments accepted by TenneT and the documents specified in Annex 1 (Scope of Work) and to be prepared by you shall become part of the contract.
- Options, additions or variants are not permitted. The tenderer must point out any incorrect or incomplete information provided by TenneT and make suggestions for error correction/completion as well as alternative proposals if necessary.
- With the tender documents, you receive a Deviation List (Annex 2). In this list, you may note down possible changes/comments to the Scope of Work (Annex 1) with reference to the respective chapters in the Scope of Work, in case you find any unclear issues or need to object/comment certain passages of the Scope of Work which may not be changed in its initial wording. The deviation list needs to be submitted along with the other offer documents in digital form (MS-Excel file and pdf-format) via upload. Should the tenderer find any need for clarification, the tenderer shall inform TenneT in writing via the Negometrix Question & Answer (Q&A) tool. If the tenderer makes certain assumptions regarding the content of the scope of work or any other related documents, the tenderer needs to inform TenneT in advance about this to confirm or clarify these assumptions prior to the submission of the offer.

- With the tender documents, you receive TenneT's non-binding draft proposal for the contract (Agreement PSV). We ask you to comprehensively revise this draft in Track Change mode with regard to all points relevant to you and, in particular, to insert (mark up) all alternative text proposals you think are necessary to safeguard your own interests. At some points in the contract you are to fill in mandatory information, such as company name, company's register number, bank information and address with regard to the performance guarantee. Therefore, all tenderers have the same effective opportunity to enforce any proposed texts submitted as an alternative to the attached draft contract wording and all its provisions. During the negotiations, TenneT and those companies invited for negotiations will discuss and negotiate the draft contract in full and agree on a wording which will form the final contract in case of awarding. The tenderer shall submit the revised/annotated contract proposal to TenneT in MS-Word format and pdf format with the offer.
- Even if, in our opinion, on the above basis, the attached proposal for a possible contract cannot, from the outset, constitute general terms and conditions within the meaning of Sec. 305 (1) Sentence 1 of the German Civil Code (BGB), we would like to point out, as a precautionary measure, that we are already placing at your full disposal the core of all contractual provisions of the contract proposal and are thus granting you the absolute freedom to safeguard your own interests, with the substantial possibility to fully influence the content of the contractual conditions. We will also conduct the contract negotiations in such a way that the core of all clauses, which is foreign to the law, remains at your full disposal. You can (and should) now exercise your freedom of discretion in preparing your markup version of the contract as well as in the contract negotiations in order to safeguard your own interests and influence the content of all contractual conditions of the attached contract proposal.
- In order to ensure the comparability of all tenders, the tenderer is provided with a password-protected MS Excel file with these tender documents in which the prices are to be entered (Annex 3: Price Sheet PSV). Should the price sheet contain any mistake or prove ambiguous, the tenderer shall inform the contracting entity immediately. The completed price sheet must be uploaded together with the other offer documents in both, MS Excel and pdf format. Only the price details entered in the price sheet in accordance with the specifications will be used to evaluate the tender. Other price quotations, alternative pricing or additional written or verbal restrictions cannot be taken into account.
- If the tenderer excludes certain tendered services of the scope of work (Annex 1), this must be clearly and comprehensively stated in the offer and in the deviation list (Annex 2).

The information provided has been compiled to the best of our knowledge and belief. However, it cannot be ruled out that not all the information relevant for selecting the individual tenderer is contained in these tender documents. Also, the provided documents do not release the tenderer

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from self-assessing the economic, technical and legal obligations. The contracting entity strongly encourages the tenderers to assess aforementioned obligations and requirements before submitting an offer.

## **1.9 Submission of documents/information with the offer**

The following documents must be transferred to the Client with the offer via Negometrix under “Questionnaires” and section “Offer”:

1. Annotated version of the draft contract in MS Word and pdf format, including all the bidder’s comments and changes to the text in Track-Change-Mode.
2. List of deviations (Annex 2) with regard to the notes on the scope of work (Annex 1) in MS Excel and pdf format.
3. Completed price sheet (Annex 3) in MS Excel and pdf format in electronic form.
4. Completed “Operational Limits” document (Annex 10) in MS Word and pdf format.
5. Overview of the vessel’s last special survey and the next dry docking during the entire term of the contract.
6. Deck layout including tank arrangement plan.
7. DP capability plots.
8. Written assurance report based on IMCA M 204 Vessel Assurance
9. Confirmation of availability (written statement) of the offered PSV for the given date of start of the service.
10. Written concept of mobilizing a back-up PSV in cases of breakdown or planned maintenance of the offered PSV. How will you manage to replace the primary PSV in these cases on short notice?
11. Written concept of how the Industry Standards are implemented into the safety management system and how the compliance is monitored and assured.
12. Written concept of compliance of the qualification of appointed key personnel with regards to IMCA M117 rev. 2.
13. Proposed dates for an initial visit/inspection of the offered PSV prior in CW 2 and 3 in 2020.
14. Presentation of the company concepts on occupational health and safety (e. g. checklist for loading and unloading to ensure correct loading/unloading or reporting in case of unsafe conditions, incl. countermeasures).
15. Written confirmation of acknowledgement and recognition of the SHE requirements of Client (see Annex 6 Appendix A I).
16. Occupational Health, Safety and Environmental Protection Information Sheet (see Annex 6 Appendix A II).
17. Proof of SHE management system (e.g. SCC, OHSAS, etc.) by uploading the respective certificate or similar evidence (e.g. the manual).
18. SHE Plan (see Annex 6 A.1.2 and Appendix A III).
19. Safety Culture Ladder certificate or a plan of action for acquiring the said certificate.
20. Three Risk Assessments in relation to the services to be carried out (work-related topics in line with the provision of a PSV and cargo runs).



## **2 EXPLANATIONS REGARDING BIDDING AND NEGOTIATION PROCEDURE**

The following section describes the stages of the bidding and negotiation procedure. This description is not part of the service to be awarded, but is intended to provide the tenderer with a simplified overview of the actual implementation of the tendering procedure:

On the basis of these tender documents, those tenderers classified as suitable after the successfully completed call for competition phase will then be invited to submit a binding offer. The offer must contain all elements and documents listed in the tender documents in English (see 1.9).

The offer must meet all formal and substantive minimum requirements in order to be subsequently assessed on the basis of the published award criteria.

The formal evaluation excludes the following offers:

- Offers which have not been received in due time or in proper format, unless the bidder is not responsible,
- Offers that are incomplete and do not contain all requested or subsequently demanded documents, explanations or verifications,
- Offers that do not contain the requested price information (price sheet),
- Offers in which amendments or additions have been made to the tender documents, which were not disclosed,
- Offers submitted by bidders who have reached an inadmissible, anti-competitive arrangement regarding the contract award,
- Offers that do not contain a legally binding signature of a properly authorised representative of the bidder and
- Offers that represent prohibited alternative offers.

The Client reserves the right to demand additional documents as per Section 51 SektVO.

The Client reserves the right, on the basis of the binding offers, which were submitted in due form and on time, to conduct a negotiation with a maximum of three tenderers. The three candidates will be selected on the basis of the award criteria and weightings set out in point II.2.5 of the EU announcement. Furthermore, the Client reserves the right to award a contract

for the first or initial tender without negotiations based on the disclosed assessment procedure (Section 15 (4) SektVO).

During the negotiations, there will be one negotiation round (spread on two days) per tenderer; there is no entitlement to further negotiation rounds. Based on the results of these negotiations, TenneT will award one contractor to exclusively carry out the required services.

The most economic offer (best cost-performance ratio as per award criteria and weighting) will be awarded. The selection is based on the same award criteria and weightings set out in point II.2.5 of the EU announcement. A contract is concluded with the succeeding tenderer. After TenneT has informed the winning and losing tenderers accordingly, there is a 10-day objection period. After that period has passed, the tender is closed and the contract may be officially awarded to the winning tenderer. As indicated above, TenneT plans an actual commencement of service (commencement of work) from 15 March 2020, whereby, irrespective of the conclusion of the contract the agreed contract period begins.

## **2.1 Preferred bidder procedure as part of the negotiation procedure**

The Client reserves the right to select one or more bidders, based on the tenders submitted in due time, with which negotiations will be exclusively held (“preferred bidders”). Negotiations will be held with the negotiation partners selected by the Client based on the award criteria as described above.

If the Client plans to hold more than one round of negotiations, the bidders have no claim to participate in further rounds of negotiations. A gradual reduction in the number of bidders may take place during the negotiation phase and even after the submission of further tenders.

A reduction of the bidder group always takes place based on the rank of the bidders on the basis of an evaluation of their tenders using the announced award criteria

If one or more preferred bidder(s) are selected based on the aforementioned approach, the Client will continue the negotiations exclusively with the preferred bidder(s). In this case, the Client’s intention would be to negotiate a final contract with these preferred bidder(s) and award the contract based on the result of these negotiations.

In the event that, in the Client’s opinion, the negotiations with the preferred bidder(s) do not result in an economical proposal, the Client reserves the right to invite the bidders that are next in rank to continue negotiations and also, or exclusively, continue the negotiations with the next ranked bidder(s), also with the aim of negotiating a final contract and awarding a contract based on the result of these negotiations.

After conclusion of the tender evaluation, the Client will notify all bidders who were not considered about the award decision and communicate the name(s) of the contractor(s). In addition, the Client will provide information about the earliest date of the conclusion of the contract. The contract will be signed at the earliest 10 calendar days after sending this message electronically. The deadline period begins on the day after the notice has been sent; the date of reaching the affected bidder is irrelevant.

## **2.2 Submission deadline for the initial offer and timeframe for the negotiation procedure**

The planning published in Negometrix essentially applies. Additional periods and deadlines can also be defined in the invitation to submit a tender or are agreed in the negotiations. Tenders submitted too late are excluded from the award procedure. The bidder may only change or withdraw their tender until the expiration of the set deadline.

## **2.3 Alternative offers**

If permitted in the EU notice, alternative tenders are expressly requested as long as innovative concepts are described which promise both technical and commercial benefits. Alternative tenders must be prepared and submitted in the same manner as the main offer. Alternative tenders must meet the same requirements as main offers. If alternative tenders can be considered, they flow into the tender evaluation in accordance with the published award criteria.

## **2.4 Subcontractors**

If the bidder engages subcontractors, they shall be regarded and named as general contractors. When engaging subcontractors, the contractor is fully liable for the proper completion of the order.

If the bidder relies on subcontractors for the provision of services, these must be listed in the tender, in particular with the tasks to be performed in terms of type and scope.

A missing subcontractors' list may lead to the exclusion of the tender.

The Client reserves the right to reject subcontractors if there are justified doubts about their reliability (grounds for exclusion as per Sections 123, 124 GWB).

The list of subcontractors becomes an integral part of the contract in case of award.

## **2.5 Award of contract**

The contract is awarded to the most economical tender (best overall cost-performance ratio), which has achieved the best result according to the award and evaluation criteria (technical, price, SHE, contract).

### **3 NOTES ON THE AWARD PROCEDURE**

#### **3.1 No reimbursement of costs**

Any costs that arise for the applicants for the processing and preparation of the application for participation as well as for taking part in the call for competition will not be reimbursed. This also applies for any preparation of a tender or the subsequent participation in the negotiation phase.

#### **3.2 Competition guarantee**

Agreements between companies, decisions by associations of undertakings and coordinated behaviour, which are intended to effect the prevention, restriction or distortion of competition are prohibited pursuant to Section 1 GWB. This behaviour can lead to exclusion from the award procedure pursuant to Section 124 (1) no. 4 GWB.

In particular, the applicants must ensure that hidden competition is not influenced by a prohibited multiple participation. In case of doubt, the Client will request evidence from the applicants to verify that hidden competition has been ensured.

### **4 APPLICATION OF LEGAL REMEDIES**

Reference is made to the deadline of § 160 (3) no. 4 of the Act against Restraints of Competition (“Gesetz gegen Wettbewerbsbeschränkungen = GWB). Accordingly, an application for the initiation of a review procedure is inadmissible if more than 15 calendar days have elapsed after receipt of the notification from the contracting entity that they do not wish to remedy a complaint.