

2019036656 – Fast Rescue Crafts for the Norwegian  
Coastguard

Part 1 – Conduct for the procurement

Negotiated Procedure  
(The Public Procurement Regulation (FOA) part I and III)

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# 1. Introduction

## 1.1 The Contracting Authority

This procurement is conducted by The Norwegian Armed Forces, represented by the Norwegian Defence Logistics Organisation, hereinafter referred to as NDLO or «the Contracting Authority».

The Norwegian Armed Forces' responsibility is to defend Norway and Norway's values and interests. For more information, please see [www.forsvaret.no](http://www.forsvaret.no). NDLO serves to strengthen Norwegian Armed Forces' combat ability and perseverance by way of effective logistics, and is responsible to deliver fully operative equipment as quickly and effectively as possible. NDLO Strategic procurements are responsible for framework agreements and the purchase of goods and services for the entire Norwegian Armed Forces. The department enters into new, and administers existing contracts and agreements with contractors in Norway and internationally.

NDLO is a professional services company with approximately 1,700 employees. The organisation is divided into staff and divisions within maintenance, supply and procurements.

## 1.2 User

The Contracting Authority executes this procurement on behalf of the Norwegian Coastguard.

## 1.3 Purpose of the procurement

The Fast Rescue Crafts (FRC) on board Nornen-class Coastguard (type “Springer”) are approaching their end-of-life. This procurement will seek to replace current boats with new suitable boats.

## 1.4 Scope of the procurement

The Contract will include delivery of seven (7) FRCs in compliance with Annex B System Segment Specification (SSS), a maintenance training course for up to ten (10) persons at the contractor’s premises or other suitable location, documentation in accordance with Annex B and delivery of the FRCs at Sortland Coastguard base.

The Contract will in addition include an option for spare parts for one (1) year maintenance and an option for two (2) additional FRCs.

## 1.5 Duration

The duration of the contract is from the signing of the contract until delivery of the performance.

## 1.6 Type of contract

For the assignment a contract shall be entered into with one contractor.

## 1.7 The structure of the tender documentation

The tender documentation consists of three parts:

**Part 1** contains the procedural rules that describe the procedure until contract award, as well as documents relating to the completion of the first phase of the tender, **the qualification phase**. Part 1 consists of the following documents:

The main document	Conduct of the procurement (this document)
Annex 1	Declaration of commitment (template)
Annex 2	Information to be kept from public access (template)

**Part 2** contains a template for the documents the contractor must use at the completion of the second phase of the tender, **the tender phase**. Part 2 only applies to the contractors who have been invited to submit a tender, cf. clause. 2.1. Part 2 consists of the following documents:

Annex 1	Deviations from the tender documentation (template)
Annex 2	Self-declaration of ethical commitment
Annex 3	Caution, duty of non-disclosure and conflict of interest

**Part 3** contains the contract for this procurement including conditions for the performance of the contract. The documents relate to the completion of the second phase of the tender, **the tender phase**. Part 3 only applies to the contractors who have been invited to submit a tender. Part 3 consists of the following documents:

Front page of the contract with signatures – Form 5101
Contract provisions
Annexes according to the list of annexes as specified in the contract

## 2. Conduct of the procedure

### 2.1 Procurement procedure

This procurement is conducted in accordance with the Act and Regulation on public procurement; the Act of 17 June 2016 no. 73 (the Public Procurement Act) and the Regulation laid down by royal decree of 12 August 2016 no 974 (the Public Procurement Regulation - FOA).

The procurement is conducted according to the procedure «negotiated procedure» according to FOA section 13-1 second paragraph. This is a two-phased procedure. The first phase is this qualification phase (phase 1). The first phase is this qualification phase (phase 1). All interested contractors may submit a request for participation in the tender. All qualified contractors will be invited to submit tenders in the next phase of the tendering procedure (phase 2), cf. clause 7. Details relating to the negotiations are mentioned in clause 7.3.3.

### 2.2 Tender notice

The procurement is published in Doffin ([www.doffin.no](http://www.doffin.no)) and Tender Electronic Daily (TED) ([www.ted.europa.eu](http://www.ted.europa.eu)).

### 2.3 Important dates

#### 2.3.1 Progress plan

The Contracting Authority plans to conduct the procurement in accordance with the progress plan below.

Please note that the progress plan is tentative, and that the Contracting Authority may make adjustments during the process. **Tenders that are submitted too late will be rejected.**

PHASE	ACTIVITY	DATE
1	Publication of notice in Doffin/TED	17.01.2020
1	Deadline for questions during the qualification phase	13.02.2020
1	<b>Deadline for request for participation</b>	<b>25.02.2020 kl. 10:00</b>
1	Evaluation of requests for participation	Week 9-10

1	Submission of tender invitation and information relating to the evaluation result to potential surplus contractors	06.03.2020
2	Deadline for queries during the tender phase	15.04.2020
2	<b>Deadline for submission of tenders</b>	<b>27.04.2020 kl. 10:00</b>
2	Evaluation of tenders	Week 18 - 21
2	Possible negotiations	Week 21/22
2	Contract award	12.06.2020
2	Expiry of the stand-still period	23.06.2020
2	Signing of contract	25.06.2020
2	<b>Tender acceptance period</b>	<b>31.07.2020 kl. 23:59</b>

## 2.4 Communication, questions to the tender documentation and additional information

All communication in the procurement process period shall take place via Mercell.

When logged in on the tender in Mercell, please choose the folder «communication». Click on the icon «new message» in the menu. Write the question/information and click «send». The Contracting Authority will then receive the question/information.

Any questions from contractors about the tender documentation, or to the tender conference, must be submitted within the deadline stated in clause 2.3.1.

All questions will, well ahead of the expiry of the deadlines for submission of tenders be answered anonymously and made available as additional information for all those who have notified of their interest in Mercell/ the contractors invited to submit tenders. Additional information is available under the folder «communication» and then under the folder «additional information». Contractors that have already notified their interest will also receive a message by e-mail if additional information is provided in the tender. The contractor can then follow the link in the message to view the relevant tender.

## 2.5 Correction, supplementing and/or amendments to the tender documentation

Within the expiry of the tender period, the Contracting Authority is entitled to make corrections, supplements and amendments to the tender documentation that are not substantial. Corrections, supplements or amendments to the tender documentation during phase 1 will immediately be sent out to all contractors that have notified their interest via Mercell. During phase 2 corrections, supplements or amendments will be sent to the invited contractors.

Information about corrections, supplements and amendments are notified electronically via Mercell.

If you discover an error in the tender documentation, please notify the Contracting Authority via the communication module in Mercell.

## 3. Administrative provisions

### 3.1 Language

All written and oral communication relating to this tender shall be in Norwegian or English. The language requirement also applies to the actual tender.

### **3.2 Public access to documents and confidentiality**

For general public's access to documents relating to a public procurement, the Freedom of Information Act and the non-disclosure regulation in the Public Administration Act apply.

The contractors must submit one copy of the request for participation and/or the tender where the contractor censors what the contractor considers to be trade secrets. Examples of such confidential information are information about employees, reference descriptions, information about collaborating partners, unit prices, man-hour rates, etc.

In connection with requests for access to information, the Contracting Authority must independently of the view of the contractor, assess whether the information is of such a nature that the Contracting Authority is obliged to give access.

The contractors shall protect information of a confidential nature which is made available to them in connection with the procurement.

### **3.3 Code of ethics and general requirements for the case handling**

Employees in the defence sector and contractors participating in the tender shall act in accordance with good business practice and ensure a high business ethical standard in their case handling in all phases of the procurement process.

A further review on this appears from Part 2 Annex 2 – Ethic self-declaration form and Part 2 Annex 3 – Caution, confidentiality and legal qualification. By submitting tenders, the contractor confirms that Part 2 Annex 2 and 3 are read and accepted, and that any information according to Part 2 Annex 2 section 3 appears from the tender.

### **3.4 The contractor's costs relating to participation in the tender**

Costs incurred by the contractor in connection with the preparation, submission or follow-up of the tender or the procurement process in other respects will not be refunded. Participation in this procurement process will not in any way commit the Contracting Authority to enter into contract with the contractor, or impose any type of economic obligations upon the Contracting Authority towards the contractor.

### **3.5 Deviations from the tender documentation and exclusion**

Any deviations shall be specified accurately and clearly in Part 2 Annex 1 – Deviations from the Tender Documentation, in order for the Contracting Authority to be able to evaluate the tender without contacting the contractor. Deviations must appear in this document in order to be invoked by the contractor. The specification of deviations must refer clearly to the relevant Annex and clause in the tender documentation. The contractor must specify clearly the consequences of such deviations for the service, price and/or other circumstances in the tender.

The Contracting Authority requests that the contractors familiarise themselves with the exclusion principles in FOA chapter 24.

## **4. The European Single Procurement Document (ESPD) – electronic self-declaration form**

### **4.1 Generally about ESPD**

The contractor shall submit the European Single Procurement Document together with the requests for participation in the tender (phase 1) as documentation that the request fulfils all qualification requirements and that no grounds exist for exclusion.

In this tender, the contractors shall complete the ESPD form which is integrated in Mercell.

The contractors must deliver all required documentation together with the requests for participation in phase 1.

Unless previously agreed, the Contracting Authority will, prior to awarding the contract, request the selected contractor to immediately submit updated documentary evidence.

### **4.2 National exclusion grounds**

The exclusion grounds that are ticked off under ESPD Exclusion grounds in principle only provides the Contracting Authority with an exclusion right. In the following two cases, the Contracting Authority has an exclusion obligation:

1. In the event of conflict of interest which the Contracting Authority cannot remedy by lesser measures, cf. Section 24-2 first paragraph letter c of the Public Procurement Regulation.
2. If the contractor has participated in the preparation of the tender, and thereby achieved an unreasonable competitive advance which cannot be remedied by lesser measures, cf. Section 24-2 first paragraph letter d of the Public Procurement Regulation.

In the ESPD Exclusion grounds item D, the contractor has ticked off for «purely national exclusion grounds». The national exclusion grounds are stricter than what follows from the exclusion grounds indicated in ESPD in two cases:

1. In the event of conflict of interest which the Contracting Authority cannot remedy by lesser measures, cf. Section 24-2 first paragraph letter c of the Public Procurement Regulation.
2. The Contracting Authority can exclude a contractor if it can be documented that the contractor has committed other serious faults resulting in doubt about his professional integrity, cf. Section 24-2 third paragraph letter i of the Public Procurement Regulation.

### **4.3 Qualification requirements**

#### **4.3.1 General**

The contractor must respond to the qualification requirements included in the ESPD form in Mercell.

Please note that the qualification and documentation requirements appear under the heading «Description of requirements/documentation» under the individual requirement in Mercell.

The qualification requirements in the ESPD form is also included in table below. All prequalification requirements (PQR) are followed by one or more documentation requirements (PQD). The contractor must submit information as requested in the PQDs related to each PQR as separate annexes.

QUALIFICATION REQUIREMENT	DOCUMENTATION REQUIREMENT
<p><b><u>PQR 1</u></b></p> <p><b>The Contractor must be registered in the Central Coordinating Register of Legal Entities or the Chamber of Commerce in the state where the contractor is established</b></p>	<p><b><u>PQD 1-1</u></b></p> <p>Norwegian Contractors shall submit a company registration certificate. Foreign Contractors shall submit confirmation that the Contractor is registered in a trade register of business enterprise in accordance with the laws of the country where the Contractor is established.</p>
<p><b><u>PQR 2</u></b></p> <p><b>The contractor must have sufficient necessary economic and financial capacity to execute the contract.</b></p> <p><b>It is sufficient in order to fulfil the requirements that the contractor has achieved the credit rating «A» or similar.</b></p>	<p><b><u>PQD 2-1</u></b></p> <p>The Contractor shall provide a credit rating from a recognized credit rating company, no more than 3 months old from the application due date.</p>
<p><b><u>PQR 3</u></b></p> <p><b>The Contractor must have experience from ongoing or previous projects that support the argument that they are capable to deliver a vessel that can fulfil the technical and functional requirements.</b></p>	<p><b><u>PQD 3-1</u></b></p> <p>The Contractor shall submit references to comparable projects included short description of concept, technical performances, pictures, scope etc.</p> <p>The reference list shall include the customer's contact information.</p>
<p><b><u>PQR 6</u></b></p> <p><b>The contractor must have a good environmental management system.</b></p>	<p><b><u>PQD 6-1</u></b></p> <p>Description of environmental management measures that are implemented in the business.</p> <p>If the contractor is certified pursuant to ISO 14001 or equivalent standards, it is sufficient to submit a copy of a valid certificate.</p>
<p><b><u>PQR 7</u></b></p> <p><b>The contractor must have a good and efficient quality assurance system related to the scope of the contract.</b></p>	<p><b><u>PQD 7-1</u></b></p> <p>Description of the contractor's quality assurance methods.</p> <p>If the contractor is certified pursuant to ISO 9001 or equivalent standards, it is sufficient to submit a copy of a valid certificate.</p>

#### 4.3.2 Reliance on the capacity of other entities

The contractor can choose to rely on the capacity of other entities in order to fulfil the requirements to the contractor's economic and financial capacity and to technical and professional qualifications. Other entities include parent companies, collaborating partners, subcontractors etc.

If the contractor relies on the capacity of other entities to fulfil the qualification requirements to economic and financial capacity and/or for technical and professional qualifications, the contractor must document that it possesses the necessary resources. This may be documented by for instance enclosing a signed declaration of commitment from these enterprises, see Part 1 Annex 1 – Declaration of commitment. The enterprises shall in addition submit separate ESPD-forms. If more



than one contractor participates jointly in the tender, the participating contractors must submit separate ESPD self-declarations.

**4.3.3 Requirements to the contractors' economic and financial capacity**

If a contractor relies on the capacity of other businesses in order to fulfil requirements for the contractors' economic and financial capacity, the Contracting Authority can require that they shall be jointly and severally liable for the execution of the contract.

If the contractor has justifiable reason not to submit the documentation requested by the Contracting Authority, the contractor can document its economic and financial capacity by submitting any other document deemed suitable by the Contracting Authority.

**5. Qualification**

**5.1 Conduct of the qualification phase**

The Contracting Authority will assess whether the qualification requirements are met based on the documentation supplied by the contractor along with the request for participation in the tender.

Any contractor that does not fulfil one or more of the qualification requirements will be excluded from the tender phase.

**6. Submission and request for participation in the tender**

**6.1 Submission of request**

All requests for participation shall be submitted electronically in Mercell within the deadline stated in clause 2.3.1.

The contractor may, before the expiry of the deadline to submit requests, make amendments and submit a new request. The latest submitted request counts as the final.

**6.2 Structure of the request**

The request shall contain the following documents in addition to the contractors' duty to fill in the ESPD form in Mercell:

Document number	Document	Annex/Appendix
1	All documentation as requested as documentation of fulfilment of qualification criteria as stated in chapter 4 of this document and in Mercell.	
2	A Declaration of commitment if the supplier is assisted by other entities in order to fulfil qualification requirements to economic and financial capacity and/or technical and professional qualifications	Part 1 Annex 1
3	Any censored request	See clause 3.2

**6.3 Request for participation in the entire or parts of tender**

It is not possible to submit requests for participation relating only to parts of the procurement. Contractors can only submit tenders for the parts of the procurements for which they are invited to submit a tender.

## 6.4 Notice of exclusion and rejection

The Contracting Authority will inform all contractors in writing if their request for participation in the tender is excluded as a consequence of under-fulfilment of the qualification requirements.

The notice will include a justification for why the contractor is not considered as qualified.

If the Contracting Authority finds that exclusion does not correspond to the qualification requirements or the selection criteria, the Contracting Authority can reverse its decision and let the contractor participate in the tender.

## 7. Tender

### 7.1 Invitation to submit tender

Qualified contractors that are not excluded will receive an invitation to submit their tender. Only invited contractors can submit tenders. Tenders from other contractors than those that have been invited to participate in the tender will be rejected.

### 7.2 Award criteria

The contract will be awarded to the Bidder with the best ratio between price and quality according to the criteria listed below:

Award criteria	Documentation requirement	Weight
Delivery Time	Statement of delivery time, cf. Annex E1	20-30 %
Quality	The Bidder's answers to Annex B System Segment Specification, with relevant documentation	20-30 %
Price	Price Sheet, cf. Annex B-1 Options, cf. Annex H	40-50 %

Based on the Purchaser's assessment, each offer will be assigned a score for each criterion. Highest score is 10, lowest is 0. The score will be weighted according to the table above.

### 7.3 Assessment

#### 7.3.1 Assessment model

The prices will be assessed based on the following model:

Model	Explanation	Chosen
Proportionate	Non-linear model where the tender with the best price scores 10 points. Other tenders are awarded points based on relative deviation from best prices.	<input type="checkbox"/>
Linear	The tender with the best price scores 10 points. Best price x 2 scores 0 points. Tenders with prices that are more than twice as high as the best price also score 0 points.	<input checked="" type="checkbox"/>
Hybrid	Linear model, with a break point of 2.5 points. The tender with the best price scores 10 points.  Example: Tenders that are 75% higher than best price score 2.5 points. Tenders that are more than 75% higher than best price are distributed proportionately on a flatter scale between 2.5 and 0 points.	<input type="checkbox"/>

Award criteria relating to quality will be given points on the basis of an assessment model where the best tender under each award criterion scores 10 points. The other tenders score points based on relative difference from the best tender.

The tender that scores the highest total score will be awarded the contract.

### 7.3.2 Basis for the assessment

#### Assessment of prices

The Bidder shall give his price in Part 3 Annex D Price Sheet. The Bidder shall fill in the yellow fields. The assessment will be based on the total price.

The Bidder shall give his price for Options in Part 3 Annex H Options. The bidder shall fill in the yellow fields. The assessment will be based on price for Option #2 – 2 additional FRCs only.

The prices in Part 3 Annex D Price Sheet and Part 3 Annex H Options (excluding option #1) will be added and the total sum will be the basis for the assessment. The contractor with the lowest total price will be awarded the top score of 10 points for this criteria. The other tenders score points based on relative difference from the best tender.

#### Assessment of quality

The Bidder shall document his fulfilment of the “Should” requirements in Annex B System (Segment Specification), in accordance with the documentation requirements.

Evaluation method and points given for fulfilment of “Should” requirements are described in annex B (System Segment Specification).

The contractor with the highest total score on Should-requirements will be awarded the top score of 10 points for this criteria. The other tenders score points based on relative difference from the best tender.

#### Assessment of delivery time

The Bidder shall state his delivery time in weeks from when contract is signed, in Annex E1 Statement of Delivery Time. If the FRCs are delivered separately, the Bidder shall state the delivery time of first delivered FRC.

The contractor with the fastest delivery time will be awarded the top score of 10 points. The other tenders score points based on relative difference from the best tender.

The Purchaser wish to have the first FRCS delivered before November 30, 2020.

### 7.3.3 Conduct of the negotiations

A negotiated procedure gives the Contracting Authority the right to negotiate with the contractors about all sides of the tenders. The negotiations can take place in meetings, in writing or orally. Minutes from meetings and oral negotiations will be kept.

The Contracting Authority has decided that the negotiated procedure shall take place in several phases in order to reduce the number of tenders or solutions. Such reductions will be made based on the award criteria, see. clause 7.2. A first reduction can be made prior to the negotiations.

The Contracting Authority reserves the right not to conduct negotiations.

## 8. Submission and preparation of tender

### 8.1 Submission of tenders

All tenders must be submitted electronically in Merccell within the deadline stated in clause 2.3.1, or a new deadline stated by the Contracting Authority.

The contractor may, before expiry of the deadline for submission of tenders, make changes and submit a new tender. The last submitted tender counts as the final tender.

### 8.2 Tender structure

The tender must contain the following documents:

Document number	Document	Annex/Appendix
1	Any filled in deviation from the tender documentation	Part 2 Annex 1
2	Filled in price sheet	Part 3 Annex D
3	Reply to the System Segment Specification	Part 3 Annex B
4	Filled in Statement of delivery time	Part 3 Annex E1
5	Filled in prices for Options	Part 3 Annex H
6	Self-declaration of ethical commitment	Part 2 Annex 2
7	Any censored versions of tenders	See clause 3.2
8	Other relevant information	

### 8.3 Parallel and alternative tenders (variants)

The Contracting Authority does not accept parallel tenders. Parallel tender refers to more than one tender from the same contractor that fully fulfils the requirements specified in the specification of the claim.

The Contracting Authority does not accept alternative tenders (variants). Alternative tenders (variants) refer to tenders that describe a different solution than the one described in the tender documentation.

## **9. Conclusion of the tender**

### **9.1 Tax certificate**

The Contracting Authority requires that the selected contractor submit a tax certificate for value-added tax and a tax certificate for taxes, cf. Section 7-2 of the Public Procurement Regulation. This only applies to Norwegian contractors. The tax certificate must not be older than 6 months calculated from the deadline for submission of tenders.

The Contracting Authority reserves the right to request tax certificate related to VAT and tax certificate related to tax from more than the invited contractors at earlier stages of the tender.

### **9.2 Notification and stand-still period**

The Contracting Authority will inform all contractors of which contractor the Contracting Authority intends to award the contract to. This notification will be distributed to all contractors in writing at the same time as soon as the selection of contractor has taken place.

The notification will include a justification of the choice. It will also specify the stand-still period from when the award is published until the signing of the contract is planned to take place (the entering into of the contract).

If the Contracting Authority finds that the decision on the award has not been made in accordance with the criteria for the selection of contractor, the decision can be cancelled until before the contract has been entered into.

### **9.3 Cancellation of the tender**

The Contracting Authority may cancel the tender if justifiable reason exists, cf. Section 25-4 of the Public Procurement Regulation.