

### Operation of scheduled air services

#### Invitation to tender published by France pursuant to Article 4 (1)(d) of Council Regulation (EEC) No 2408/92 for operation of scheduled air services between Marseille and Bastia

(95/C 200/19)

#### 1. Introduction

Pursuant to Article 4(1)(a) of Council Regulation (EEC) No 2408/92 of 23. 7. 1992 on access for Community air carriers to intra-Community air routes, France, in accordance with the decision of the Corsican Regional Assembly, has decided to impose public service obligations on scheduled air services between Marseille and Bastia. The standards required by these public service obligations were published in Official Journal of the European Communities No C 199 of 3. 8.

Since no air carrier has commenced or is about to commence scheduled air services on 1. 12. 1995 between Marseille and Bastia in accordance with the public service obligations imposed and without requesting financial compensation, France has decided, under the procedure provided for by Article 4(1)(d) of the same regulation, to limit access to only 1 air carrier and, after an invitation to tender, to grant the right to operate these air services with effect from 1. 1. 1996.

Tenderers may bid to provide services on more than 1 of the routes from the Corsican airports for which an invitation to tender was published in the Official Journal of the European Communities on the same day, particularly if this would reduce the total compensation required. However, tenderers must clearly indicate the amount of compensation required for each route, possibly graduated depending which of their various bids are selected (in case they are selected for only some of the routes for which they submit a tender).

#### 2. Objective of the invitation to tender

To provide, with effect from 1. 1. 1996, scheduled air services between Marseille and Bastia in accordance with the public service obligations imposed on this service, as published in Official Journal of the European Communities No C 199 of 3. 8.

#### 3. Eligibility to tender

All air carriers holding a valid operating licence issued by a Member State pursuant to Council Regulation (EEC) No 2407/92 of 23. 7. 1992 on licensing of air carriers are eligible to tender. However, as France is applying the provisions of Article 3(2) of Regulation No 2408/92, carriers licensed by a Member State other than France

may not, until 1. 4. 1997, use for the cabotage service within France more than 50 % of their seasonal capacity on the same service of which the cabotage service must be the extension or the preliminary.

#### 4. Tender procedure

This invitation to tender is subject to the provisions of subparagraphs (d), (e), (f), (g), (h) and (i) of Article 4(1) of Regulation (EEC) No 2408/92.

#### 5. Tender file

The full file for the invitation to tender, containing the delegation of public service agreement and the specific rules applicable to the invitation to tender can be obtained free of charge from:

Office des Transports de la Corse, 19 route de Sartène, Quai Saint-Joseph, BP 501, F-20186 Ajaccio cedex.

#### 6. Financial compensation

The tenders submitted shall explicitly mention the sum required by way of compensation for operation of the service in question during three years from the scheduled starting date (with an annual breakdown). The exact amount of compensation finally granted shall be determined each year retroactively on the basis of the expenditure and revenue actually generated by the service, on production of supporting evidence and within the limits of the amount specified in the tender.

#### 7. Fares

The tenders submitted shall indicate the fares planned, which shall be in accordance with the public service obligations published in the Official Journal of the European Communities No C 199 of 3. 8.

#### 8. Duration, amendment and termination of the contract

The contract shall start on 1. 1. 1996. It shall end no later than 31. 12. 1998.

An annual review of implementation of the contract shall be carried out, in concertation with the carrier, during the 2 months preceding the anniversary of the starting date of the service. The contract may not be modified unless the changes are in accordance with the public service obligations published in the Official Journal of the European Communities No C 199 of 3. 8. Any modification of the contract shall be recorded in an annex thereto.

The contract may be terminated by the carrier only at the end of a 6-month period of notice

### 9. Non-performance of the contract

The carrier shall be responsible for the proper fulfilment of the obligations arising from the contract. In the event of non-performance or poor performance of the contract for reasons other than force majeure, namely circumstances external to the carrier's own business or abnormal or unforeseeable circumstances which the carrier was unable to avoid despite having used his best efforts, the contract may be terminated by the Office des Transports de la Corse (Corsican Transport Office) without notice.

Non-performance or poor performance of the contract may lead to the payment of compensation and interest in respect of the damage suffered by the island community. The assessment of such damage shall be the responsibility of the competent courts.

Notwithstanding any action for damages, any discontinuation in services shall lead to a reduction in the amount of financial compensation in proportion to the flights cancelled.

### 10. Submission of tenders

Tenders must be sent by registered post with acknowledgement of receipt, in which case the postmark will be

accepted as proof of submission, or delivered by hand in return for a receipt not earlier than 1 month and not later than 5 weeks from the date of publication of this invitation to tender in the Official Journal of the European Communities, in both cases not later than 17.00 hours (local time), to:

Office des Transports de la Corse, 19 route de Sartène, Quai Saint-Joseph, BP 501, F-20186 Ajaccio cedex.

### 11. Validity of the invitation to tender

In accordance with Article 4(1)(d) of Regulation (EEC) No 2408/92, this invitation to tender shall be valid on condition that no Community carrier who may be authorized to operate the route in accordance with Article 3 of Regulation 2408/92 applies by 1. 12. 1995 (allowing a reasonable time limit of 1 month to obtain traffic rights) for authorization to operate the route in question with effect from 1. 1. 1996 in accordance with the public service obligations without receiving any financial compensation.

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