

III

(Notices)

COMMISSION

Operation of scheduled air services

Restricted procedure

Invitation to tender published by Norway pursuant to Article 4.1(d) of the Act referred to in point 64a in Annex XIII of the EEA Agreement (Council Regulation (EEC) No 2408/92 of 23. 7. 1992 on access for Community air carriers to intra-Community air routes) for operation of scheduled regional air services within Norway

Ref.: Official Journal of the European Communities No 140 of 20. 5. 1999 and the EEA Supplement No 97 of 20. 5. 1999 (<http://europa.eu.int/eur-lex/en/oj/index.html>)

(1999/C 140/04)

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 (http://europa.eu.int/eur-lex/en/lif/dat/en_392R2408.html), Norway has decided to impose public service obligations on scheduled regional air services as of 1. 4. 2000, as published in Official Journal of the European Communities No 140 of 20. 5. 1999.

If, by 2 months from the latest day of submission of tenders (see section 12 of this notice), no air carrier has provided documentary evidence to the Ministry of Transport and Communications of commencing scheduled flights on 1. 4. 2000 in conformity with the public service obligations imposed on 1 or more of the tenders stated in section 2 of this notice without demanding financial compensation or market protection, Norway will apply the tender procedure provided by Article 4.1(d) of the same regulation, thereby limiting access as of 1. 4. 2000 to only 1 air carrier for each tender stated in section 2.

2. Objective of the invitation to tender

To provide, with effect from 1. 4. 2000, scheduled air services in accordance with the imposed public service obligations, as published in Official Journal of the European Communities No 140 of 20. 5. 1999.

The invitation includes 12 route areas, numbered 1-12, divided into 19 tenders. The route areas 2, 3, 4, 6 and 7 comprise 1 single tender and the remaining route areas 2 tenders each (stated as A and B). The route areas and corresponding tenders are:

Route area 1

Tender 1A: routes between Vadsø, Båtsfjord, Berlevåg, Mehamn, Honningsvåg and Hammerfest, and between these airports and Kirkenes and Alta

Tender 1B: Hasvik-Tromsø, Hasvik-Hammerfest, Sørkjosen-Tromsø

Route area 2

Tender 2: Vardø-Kirkenes

Route area 3

Tender 3: Lakselv-Tromsø

Route area 4

Tender 4: Andenes-Bodø, Andenes-Tromsø

Route area 5

Tender 5A: Svolvær-Bodø

Tender 5B: Leknes-Bodø

Route area 6

Tender 6: Røst-Bodø

Route area 7

Tender 7: Narvik (Framnes)-Bodø

Route area 8

Tender 8A: Brønnøysund-Bodø, Brønnøysund-Trondheim

Tender 8B: Sandnessjøen-Bodø, Sandnessjøen-Trondheim

Route area 9

Tender 9A: Mo i Rana-Bodø, Mo i Rana-Trondheim, Mosjøen-Bodø, Mosjøen-Trondheim

Tender 9B: Namsos-Trondheim, Rørvik-Trondheim

Route area 10

Tender 10A: Florø-Oslo

Tender 10B: Florø-Bergen

Route area 11

Tender 11A: Førde-Oslo

Tender 11B: Førde-Bergen

Route area 12

Tender 12A: Sogndal-Oslo, Sogndal-Bergen

Tender 12B: Sandane-Oslo, Sandane-Bergen, Ørsta-Volda-Oslo, Ørsta-Volda-Bergen.

For each of the route areas 1, 5, 8, 9, 10, 11 and 12 the carriers are invited to bid for tenders A and B combined, particularly if this would reduce the total compensation required for the route area. Tenderers are then obliged to indicate clearly the amount of compensation required for each tender (A and B) in case they are selected for only 1 of them.

For route area 2 the carriers may also submit tenders on the assumption that they are selected for route area 1 or tender 1A of this notice. Tenderers are then obliged to indicate clearly the amount of compensation required for route area 2 isolated in case they are selected for this route area only.

For route area 4 the carriers may also submit tenders on the assumption that they are selected for route area 5 or route area 7 of this notice. Tenderers are then obliged to indicate clearly the amount of compensation required for route area 4 isolated in case they are selected for this route area only.

For route area 6 the carriers may also submit tenders on the assumption that they are selected for route area 5 or tender 5B or route area 7 of this notice, or for the helicopter route Værøy-Bodø v.v., for which public service obligations were published in Official Journal of the European Communities No C 16 of 21. 1. 1999. Tenderers are then obliged to indicate clearly the amount of compensation required for route area 6 isolated in case they are selected for this route area only.

For route area 11 the carriers may also submit tenders on the assumption that they are selected for route area 10 or route area 12 of this notice. Tenderers are then obliged to indicate clearly the amount of compensation required for route area 11 isolated in case they are selected for this route area only.

3. Eligibility to tender

All air carriers holding a valid operating licence pursuant to Council Regulation (EEC) No 2407/92 of 23. 7. 1992 on licensing of air carriers are eligible to tender (http://europa.eu.int/eur-lex/en/lif/dat/en_392R2407.html).

4. Tender procedure

This invitation to tender is subject to the provisions of subparagraphs (d)-(i) of Article 4.1 of Council Regulation (EEC) No 2408/92.

The Ministry of Transport and Communications reserves the right to reject all tenders. Overdue tenders and tenders not in conformity with the invitation to tender will be rejected.

The Ministry of Transport and Communications reserves the right to apply subsequent negotiations if all tenders submitted are incorrect or if, after the final date for receipt of tenders, there proves to be only 1 tenderer or competition is otherwise insufficient. Such negotiations shall be in accordance with the public service obligations imposed and without making substantial changes in the original tender conditions.

The tender is binding on the tenderer until the award is made.

5. Award

5.1 As the principal rule (see sections 5.2 and 5.3 of this notice), the award shall be made to the tender or, where relevant, the combination of tenders requiring the lowest amount of compensation for each route area, specified as follows:

- a) for each of the route areas 1, 5, 8, 9, 10, 11 and 12, to the tender or combination of tenders requiring the lowest amount of compensation within the route area during the period 1. 4. 2000-31. 3. 2003;
- b) for each of the route areas 2, 3, 4 and 7, to the tender requiring the lowest amount of compensation during the period 1. 4. 2000-31. 3. 2003,
- c) for route area 6, to the tender requiring the lowest amount of compensation on an annual basis.

5.2 If, for tender A or B within the route areas 1, 5, 8, 9, 10, 11 and/or 12, there are tenders requiring no compensation and thus market protection only, the award shall be made to such tenders notwithstanding section 5.1. The provisions of 5.1 a) will then apply to the remaining tender (B or A) within the route area concerned.

5.3 In case the award cannot be made subject to the provisions of 5.1 and 5.2 because there are tenders requiring identical amounts of compensation, the award shall be made to the tender or, where relevant, to the combination of tenders offering the highest number of seats within each of the route areas 1, 2, 3, 4, 5, 7, 8, 9, 10, 11 and 12 during the period 1. 4. 2000-31. 3. 2003 and, for route area 6, to the tender offering the highest number of seats on an annual basis.

6. Tender file

The full file for invitation to tender, containing the impositions of public service obligations, the specific rules to the invitation to tender (Norwegian Regulation on tender procedures in connection with public service obligations to implement Council Regulation (EEC) No 2408/92, Article 4), the standard contract and tender budget, may be obtained free of charge from the principal:

Ministry of Transport and Communications, PO Box 8010 Dep, N-0030 Oslo, tel. + 47 22 24 82 41, facsimile + 47 22 24 95 72.

The documentaiton is also available on Internet: (<http://www.odin.dep.no/sd/publ/anbud/>).

7. Financial compensation

The tenders submitted shall be in accordance with the tender budget included in the tender file and explicitly mention the compensation in Norwegian kroner (NOK) required for operation of the service(s) in question from the scheduled starting date to the end of the contract period (see section 9 of this notice). The tenders shall be based on the price level for the first operating year, here defined to be 1. 4. 2000-31. 3. 2001, and with an annual breakdown.

The exact amount of compensation granted for the operating years beginning 1. 4. 2001 and 1. 4. 2002 shall be based on an operating revenue and operating cost adjustment of the tender budget. These adjustments shall be within the limit of the consumer price index for the 12-month period ending 15 February the same year, as made public by Statistics Norway.

(<http://www.ssb.no/www-open/english/statistics> by subject/).

The operator shall retain all revenue generated by the service and is fully responsible for the expenses, however, renegotiation in accordance with the standard contract may apply in case of substantial and unforeseeable changes in the assumptions underlying it.

8. Fares

The tenders submitted shall specify the fares and the conditions thereto. The fares shall be in accordance with the public services obligations published in Official Journal of the European Communities 140 of 20. 5. 1999.

9. Duration, amendment and termination of the contract

For tender 6 the contract shall start on 1. 4. 2000 and end 31. 7. 2002 or 31. 3. 2003, (see 5.1 c) of this notice). The tenderers must clearly specify the duration of the contract.

For all other tenders the contract shall start on 1. 4. 2000 and end 31. 3. 2003.

The price adjustments specified in section 7 of this notice and an annual review of the implementation of the contract shall be carried out in concertation with the carrier during the 6 weeks 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 Official Journal of the European Communities 140 of 20. 5. 1999. 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 12-month period of notice.

10. Breach of contract/Cancellation

In the event of substantial breach of the contract, it may be cancelled with immediate effect by the other party.

Subject to the restrictions following insolvency law, the Ministry of Transport and Communications may cancel the contract with immediate effect if the operator becomes insolvent, initiates debt settlement proceedings or goes bankrupt. Equally the Ministry of Transport and Communications may cancel the contract in the other cases dealt with in section 12 of the regulation on tender procedures in connection with public service obligation, which is included in the tender file (<http://www.lovddata.no/for/sf/sd/sd-19940415-0256.html>).

If the operator, owing to force majeure or other factors outside his control, has been unable to comply with the public service obligations as stated in the contract for more than 4 of the past 6 months, the contract may be cancelled at 1 month's written notice.

The Ministry of Transport and Communications may cancel the contract with immediate effect if the operator has his licence revoked or it is not renewed.

Notwithstanding any action for damages, the financial compensation shall be reduced in proportion to the total number of flights cancelled for reasons directly attributable to the carrier if the number of flights cancelled for such reasons during an operating year exceeds 1,5 % of the planned number of flights.

11. Airline codes

The flights cannot carry any airline codes other than the tenderer's own and cannot be part of any code-sharing agreement.

12. 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, to: Ministry of Transport and Communications, Akersgata 59 (visiting address), PO Box 8010 Dep, N-0030 Oslo,

not later than 13 weeks from the date of this publication, at 15.00 (local time).

All tenders must be submitted in 3 copies.

13. Validity of the invitation of tender

This invitation to tender shall be valid only to the extent that no EEA air carrier by 2 months from the latest day of submission of tenders (see section 12 of this notice) has provided documentary evidence to the Ministry of Transport and Communications of commencing scheduled air services on 1. 4. 2000 in accordance with the public service obligations imposed on one or more of the tenders stated in section 2 of this notice, without demanding financial compensation or market protection.