

III

(Notices)

COMMISSION

Operation of scheduled air services

Invitation to tender issued by France under to Article 4(1)(d) of Council Regulation (EEC) No 2408/92 in respect of the operation of scheduled air services between Dijon and Clermont-Ferrand

(2003/C 278/07)

(Text with EEA relevance)

1. **Introduction:** Pursuant of Article 4(1)(a) of Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes, France has decided to impose public service obligations in respect of scheduled air services between Dijon and Clermont-Ferrand. The terms of these public service obligations were published in the 'Official Journal of the European Union' No C 227 of 18.11.2003.

Insofar as by 1.3.2004 no air carrier has commenced or is about to commence scheduled air services between Dijon and Clermont-Ferrand in accordance with the public service obligations imposed and without requesting financial compensation, France has decided, in accordance with the procedure laid down in Article 4(1)(d) of that regulation, to limit access to only one air carrier and to offer by public tender the right to operate such services from 1.4.2004.

2. **Object of invitation to tender:** Operation from 1.4.2004 of scheduled air services between Dijon and Clermont-Ferrand in accordance with the public service obligation imposed on that route and published in the 'Official Journal of the European Union' No C 227 of 18.11.2003.
3. **Participation:** Participation is open to all air carriers holding a valid operating licence issued by a Member State under Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers.
4. **Tender procedure:** This invitation to tender is subject to points d, e, f, g, h and i of Article 4(1) of Regulation (EEC) No 2408/92.

5. **Tender dossier:** The complete tender dossier, comprising the specific rules governing the invitation to tender and the public service delegation agreement together with its

technical annex (text of the public service obligations published in the 'Official Journal of the European Communities') may be obtained free of charge from:

Chambre de commerce et d'industrie de Dijon, 1, place du Théâtre, BP 370, F-21010 Dijon Cedex. Tel.: (33) 3 80 65 92 84. Fax: (33) 3 80 65 37 09. URL: www.dijon.cci.fr.

6. **Financial compensation:** The tenders submitted will indicate the amount required by way of compensation for operating the service for 3 years from the scheduled starting date (with an annual breakdown). The exact amount of compensation finally granted will be determined each year ex post on the basis of the costs and revenue actually generated by the service, within the limits of the amount given in the tender. This maximum limit may be revised only in the event of an unforeseen change in the operating conditions.

The annual payments will be made in the form of instalments and a balance. The balance will be paid only after approval of the carrier's accounts for the route in question and verification that the service has been operated in accordance with the conditions laid down in point 8 below.

In the event of termination of the contract before its normal expiry date, point 8 will be applied as soon as possible to allow payment to the carrier of the balance due, the maximum amount referred to in the first subparagraph being reduced, where appropriate, in proportion to the actual duration of the service.

7. **Duration of contract:** The duration of the contract (public service delegation agreement) is three years from the date scheduled for the beginning of the services mentioned in point 2 of this invitation to tender.

8. **Verification of the operation of the service and of the carrier's cost accounts:** The operation of the service and the carrier's cost accounting for the route in question will be the subject of at least one annual examination in cooperation with the carrier.
9. **Termination of contract and notice:** The contract may be terminated by either party before its normal expiry date only if six months' notice is given. If the carrier fails to respect a public service obligation, it shall be deemed to have terminated the contract without notice if it does not resume the service in accordance with the public service obligations within one month of the serving of formal notice.
10. **Penalties:** Failure by the carrier to observe the period of notice referred to in point 9 will be subject either to an administrative fine of up to 7 622,45 EUR pursuant to Article R.330-20 of the Civil Aviation Code, or to a penalty calculated on the basis of the number of months of default and the real operating loss of the service during the year in question, not exceeding the maximum financial compensation provided for in point 6.

In the event of serious breaches of the public service obligation, the contract may be cancelled and the carrier deemed to have terminated the contract without notice.

In the event of minor breaches of the public service obligation, the maximum financial compensation provided for in point 6 shall be reduced, without prejudice to the application of the provisions of Article R.330-20 of the

Civil Aviation Code. Such reductions shall take account, where appropriate, of the number of flights cancelled for reasons attributable to the carrier, the number of flights made with a capacity lower than that required, the number of flights which failed to comply with the public service obligation as regards stopovers, and the number of days on which the public service obligation was not complied with as regards time at destination, fares charged, and the use of computerised reservation services.

11. **Submission of tenders:** Tenders must be sent by registered letter with acknowledgement of receipt, the postmark serving as proof, or delivered by hand with receipt, at the latest six weeks from the date of publication of this invitation to tender in the '*Official Journal of the European Union*' before 17.00 (local time) to the following address:

Chambre de commerce et d'industrie de Dijon, 1, place du Théâtre, BP 370, F-21010 Dijon Cedex. Tel.: (33) 3 80 65 92 84. Fax: (33) 3 80 65 37 09. URL: www.dijon.cci.fr.

12. **Validity of invitation to tender:** In accordance with Article 4(1)(d) of Regulation (EEC) No 2408/92 of 23.7.1992, the validity of this invitation to tender is subject to the condition that no Community carrier presents by 1.3.2004 a programme for operating the route in question as from 1.4.2002, in accordance with the public service obligations imposed, without receiving any financial compensation.