

## III

(Notices)

## COMMISSION

## GR-Elliniko: operation of scheduled air services

**Invitation to tender for contracts for the operation of scheduled air routes subject to public service obligations, issued by the Hellenic Republic under Article 4(1)(d) of Council Regulation (EEC) No 2408/92**

(2006/C 47/13)

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, the Greek Government has decided to impose a public service obligation from 1.4.2006 in respect of scheduled services on the following routes:

Athens-Kithira,

Athens-Naxos,

Athens-Paros,

Athens-Karpathos,

Athens-Sitia,

Athens-Skiathos,

Thessaloniki-Kerkira (Corfu),

Rhodes-Kos-Leros-Astypalea,

Kerkira (Corfu)-Aktio-Kephalonia-Zakinthos.

The stipulations of the public service obligation were published in the *Official Journal of the European Union* C 46 of 24.2.2006 and C 164 of 10.7.2002, p. 16.

If, by 1.3.2006, no air carrier has declared to the Civil Aviation Authority that it intends to operate scheduled flights on one or more of the above routes from 1.4.2006 in accordance with the stipulations of the public service obligation for the route or routes concerned and without financial compensation, Greece has decided that, under the procedure laid down in Article 4(1)(d) of the said Regulation, it will initiate the procedure to limit access to one or more of the above routes (as stated in the next article) to a single air carrier for 3 years and to offer the right to operate the routes concerned from 1.4.2006 by public tender.

2. **Object of the invitation to tender:** The exclusive right to operate scheduled air services, subject to public service obligations for 3 years from 1.4.2006, on the following routes:

Athens-Kithira,

Athens-Naxos,

Athens-Paros,

Athens-Karpathos,

Athens-Sitia,

Athens-Skiathos,

Thessaloniki-Kerkira (Corfu),

Rhodes-Kos-Leros-Astypalea,

Kerkira (Corfu)-Aktio-Kephalonia-Zakinthos.

Services on these routes are to be operated in accordance with the stipulations of the corresponding public service obligation, published in the *Official Journal of the European Communities* C 46 of 24.2.2006 and C 164 of 10.7.2002, p. 16.

Tenders may be submitted for one or more of the above routes. However, all tenders shall be submitted separately for each of the above routes.

Because of the special nature of the air routes concerned, air carriers must be able to demonstrate that cabin crew serving passengers on the above routes speak and understand Greek.

3. **Participation in the tender procedure:** All air carriers holding a valid operating licence issued by a Member State pursuant to Council Regulation (EEC) No 2407/92 on licensing of air carriers may take part in the tender procedure.

4. **Tender procedure:** This tender procedure is subject to the provisions of Article 4(1)(d) and (i) of Council Regulation (EEC) No 2408/92 on access for Community air carriers to intra-Community air routes and to the provisions of Presidential Decree 346/98 aligning Greek legislation on public service contracts with the provisions of Council Directive 92/50/EEC of 18.7.1992, as amended by Presidential Decree 18/2000.

In an emergency, if it is decided to repeat the tender procedure (on account of the unsuccessful outcome of the initial procedure), the Ministry of Transport and Communications may take the necessary measures to ensure that the vital air transport needs of a particular remote region are covered, provided such measures are in line with the principles of non-discrimination, proportionality and transparency and will not last for more than 6 months.

Moreover, should only one tender be submitted, and should that tender be considered financially unacceptable, the negotiations procedure may be followed.

Bidders shall be bound by the tenders they have submitted until the contracts are awarded.

5. **Tender dossier:** The full tender dossier, setting out the specifications, the supporting documents required for participation and other information is available free of charge from the Hellenic Civil Aviation Authority, Directorate for Air Operations, Vas. Georgiou 1, GR-166 04 Elliniko. Tel. (30-210) 891 61 49 or fax (30-210) 894 71 01.
6. **Financial compensation:** Tenders must explicitly state the fee required per quarter for operating each route for 3 years from the proposed date of commencement of operations (with an annual breakdown of the accounts as stated in the specifications). The financial compensation will be paid on a quarterly basis 30 days after the date of the corresponding invoice issued by the air carrier by means of a transfer to the account which the air carrier shall hold at a bank recognised in Greece. The exact amount of the compensation will be determined on the basis of the flights actually operated, a certificate from the relevant bodies of the Civil Aviation Authority stating that the terms of the contract have been properly complied with, and the amount of compensation due 'pro rata'.
7. **Selection criterion:** For each route covered by the invitation to tender, the criterion for choosing between the air carriers judged to be in a position to provide services on that route smoothly and in accordance with the stated requirements shall be the lowest figure for the total financial compensation sought in respect of that route.
8. **Duration, amendment and annulment of the contract:** The contract will apply from 1.4.2006 and expire on 31.3.2009.

Any amendment to the contract must comply with the public service obligation published in the *Official Journal of the European Communities* C 46 of 24.2.2006 and C 164 of 10.7.2002, p. 16. All amendments to the contract must be in writing.

If there is any unexpected change in the operating conditions, the amount of the compensation may be reviewed.

Each contracting party may terminate the contract by giving 6 months' advance notice. If there are particularly serious grounds or if the air carrier has failed to comply properly with the contractual terms relating to the public service obligation, the awarding authority may terminate the contract without giving advance notice. The contract shall also be deemed to have terminated automatically if the contractor's operating licence or air operator's certificate (AOC) is suspended or revoked.

9. **Penalties for failure to abide by the terms of the contract:** The air carrier shall be responsible for complying properly with the terms of the contract.

The number of flights cancelled for reasons for which the air carrier is responsible may not exceed 2 % of the total annual number of flights. In such cases, the amount of the financial compensation shall be reduced pro rata.

In the event of failure to discharge all or part of the contractor's obligations under the contract for reasons which do not constitute 'force majeure' (other than the case where the number of flights cancelled is less than 2 % of the total annual number of flights, referred to in the preceding paragraph), the awarding authority will be entitled to impose the following penalties:

- where the number of flights cancelled on a given route exceeds 2 % of the total annual number of flights scheduled, the financial compensation payable in respect of that route (for the flights actually operated during the quarter) will be further reduced by an amount equal to that which would have applied had the flights been operated normally,
- where the failure concerns the weekly number of seats actually offered during the quarter, the financial compensation will be reduced in proportion to the number of seats not offered,
- where the failure concerns the fares charged, the financial compensation will be reduced in proportion to the difference between the fares charged and the required fares,
- in the event of any other failure to honour the terms of the contract, the fine provided for in the airport regulations will be imposed,

- where the contractor commits the same error for the third time in the same quarter on the same route, in addition to the above penalties, the forfeiture in whole or in part of the letter of guarantee of proper performance of the terms of the contract corresponding to that route may be demanded as a forfeit clause, following written notification from the Civil Aviation Authority to the contractor and provided the contractor does not adduce sufficient evidence that he is not to blame. In deciding whether to impose the penalties provided for in this point, account will be taken of the seriousness of every failure which has been ascertained, and the principle of proportionality will be applied.

The awarding authority may also demand compensation for damage caused.

10. **Submission of tenders:** Tenders must be sent in 5 copies by registered post with recorded delivery or be delivered by hand with recorded delivery to the following address:  
Ministry of Transport and Communications, Civil Aviation Authority, Directorate-General for Air Transport, Directo-

rate for Air Operations, Section II, Vasileos Georgiou 1, GR-16604 Elliniko.

The closing time and date for the submission of tenders shall be 12:00 on the 32nd day following the date of publication of this invitation to tender in the *Official Journal of the European Union*. Tenders sent by post must be received by the time and date stated above, as certified by the record of delivery.

11. **Validity of the invitation to tender:** This invitation to tender shall be valid provided that, by 1.3.2006, no Community air carrier has declared (by submitting a flight plan to the Civil Aviation Authority) its intention of operating scheduled flights on one or more of the above-mentioned routes from 1.4.2004, in accordance with the public service obligation imposed and without receiving financial compensation.

In any event, the invitation to tender shall continue to have effect in respect of those routes for which no air carrier has declared an interest as above by 1.3.2006 on the terms stated above.

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