

Operation of scheduled air services

Invitation to tender issued by the United Kingdom under Article 4(1)(d) of Council Regulation (EEC) No 2408/92 in respect of the operation of the scheduled air services between the Orkney Mainland (Kirkwall) and the Islands of Papa Westray, North Ronaldsay, Westray, Sanday, Stronsay and Eday

(2003/C 296/07)

(Text with EEA relevance)

Introduction

In pursuance of Article 4(1)(a) of Regulation (EEC) No 2408/92 of 23.7.1992 on access for Community air carriers to intra-Community air routes, the United Kingdom has imposed public service obligations (PSOs) in respect of scheduled air services operated between the Orkney Mainland (Kirkwall) to Papa Westray, North Ronaldsay, Westray, Sanday, Stronsay and Eday. The standards required by the PSOs for Papa Westray and North Ronaldsay were published in the *Official Journal of the European Union* No C 394/04 of 30.12.1997, as modified in the *Official Journal of the European Union* No C 369/2 of 22.12.2000, No C 363/06 of 19 December 2001 and No C 295 of 5.12.2003. The standards required by the PSOs for Westray, Sanday, Stronsay and Eday were published in the *Official Journal of the European Union* No C 363/05 of 19 December 2001, as modified in the *Official Journal of the European Union* No C 295 of 5.12.2003.

In so far as by 1.3.2004 no air carrier has commenced or is about to commence scheduled air services between the Orkney Mainland (Kirkwall) and the Islands of Papa Westray, North Ronaldsay, Westray, Sanday, Stronsay and Eday in accordance with the PSOs imposed and without requesting financial compensation, the United Kingdom has decided, in accordance with procedures laid down in Article 4(1)(d) of the above-mentioned Regulation, to limit access to these routes to a single air carrier and to offer the right to operate such services from 1.4.2004 by public tender.

The contract shall be awarded by Orkney Islands Council; hereinafter referred to as the 'Awarding Authority'.

- 1. Object of invitation to tender:** Operation from 1.4.2004 of scheduled air services between the Orkney Mainland (Kirkwall) and the Islands of Papa Westray, North Ronaldsay, Westray, Sanday, Stronsay and Eday in accordance with the PSOs imposed on the routes. The Papa Westray and North Ronaldsay PSOs were published in the *Official Journal of the European Union* No C 394/04 of 30.12.1997, as modified in the *Official Journal of the European Union* No C 369/2 of 22.12.2000, No C 363/06 of 19 December 2001 and No C 295 of 5.12.2003. The Westray, Sanday, Stronsay and Eday PSOs were published in the *Official Journal of the European Union* No C 363/05 of 19 December 2001, as modified in the *Official Journal of the European Union* No C 295 of 5.12.2003.

- 2. Participation:** Participation is open to all air carriers holding a valid operating licence issued by a Member State in accordance with Council Regulation (EEC) NO 2407/92 on 23.7.1992 on licensing of air carriers. The services will operate under the Civil Aviation Authority (CAA) regulatory regime.
- 3. Tender Procedure:** This invitation to tender is subject to the provisions of Article 4(1) (d), (e), (f), (g), (h) and (i) of Regulation (EEC) No 2408/92.
- 4. Tender Dossier/Qualifications etc:** The complete tender documentation, including form of tender, specification, conditions of contract/schedule to the conditions of contract, as well as the text of the original PSOs published in the *Official Journal of the European Union* No C 394/04 of 30.12.1997, as modified in the *Official Journal of the European Union* No C 369/2 of 22.12.2000, No C 363/06 of 19 December 2001 and No C 295 of 5.12.2003 for Papa Westray and North Ronaldsay; and in the *Official Journal of the European Union* No C 363/05 of 19 December 2001, as modified in the *Official Journal of the European Union* No C 295 of 5.12.2003 for Westray, Sanday, Stronsay and Eday, may be obtained free of charge from the Awarding Authority as follows:

Orkney Islands Council, Council Offices, School Place, UK-Kirkwall KW15 1NY, Orkney, Scotland. Att: Jeremy Baster, Director of Development and Protective Services). Tel.: 0044 1856 873535. Fax: 0044 1856 875846.

Airlines will be required to include in their tender documents, evidence of their financial standing (an annual report and audited accounts for the past 3 years must be provided and must include turnover and pre-tax profit for the past 3 years), previous experience and technical capability to provide the services described. The Awarding Authority reserves the right to solicit further information about any applicant's financial and technical resources and abilities.

Tenders should be priced in sterling and all supporting documents must be in English. The contract will be considered as a contract made under Scottish Law and subject to the exclusive jurisdiction of the Scottish courts.

5. **Financial compensation:** The tenders submitted should indicate the amount required by way of grant for operating the services for one year from the scheduled starting date. The grant should be calculated in accordance with the specification. The maximum limit finally granted may be revised only in the event of an unforeseen change in the operating conditions.

The contract will be awarded by Orkney Islands Council. All payments under the contract will be in sterling.

6. **Period of validity, amendment and termination of the contract:** A one-year contract for the 6 routes will commence on 1.4.2004 and will terminate on 31.3.2005. Any amendment or termination of the contract will be in accordance with the conditions of contract. Variations in the services will be permitted only with the agreement of the Awarding Authority.

7. **Penalties in the event of the carrier failing to comply with the contract:** In the event of the carrier failing to operate a flight for any reason then, subject as aftermentioned, the Awarding Authority may reduce the grant on a pro rata basis for each occasion on which a flight is not operated provided that the Awarding Authority shall not make any such reduction in the grant where the failure to operate the flights is as a consequence of any of the following, and the appropriate occurrence has not arisen as a consequence of the acts or omissions of the carrier:

- weather;
- closure of the airports;
- security reasons;

- strikes;
- reasons of safety.

An explanation from the carrier for such non-operation is also required in accordance with the conditions of contract.

8. **Deadline for submission of bids:** 1 month after the date of publication of this notice.
9. **Application procedure:** Tenders must be sent to the following address in a sealed envelope with the tender documentation sealed in the tender envelope provided:

Chief Executive, Orkney Islands Council, Council Offices, School Place, Kirkwall, Orkney, Scotland KW15 1NY.

Persons admitted to open tenders are designated staff from the Awarding Authority.

10. **Validity of invitation to tender:** In accordance with Article 4(1)(d) of Regulation (EEC) No 2408/92, the validity of this invitation to tender is subject to the condition that no Community air carrier presents, by 1.3.2004, a programme for operating the routes in question from 1.4.2004 or before that date, in accordance with the PSOs imposed, as amended for Papa Westray, North Ronaldsay, Westray, Sanday, Stronsay and Eday, without receiving subsidy. The Awarding Authority reserves the discretion to refuse to accept any tender if, on appropriate grounds, none is considered suitable for acceptance.
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