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**Denmark-Copenhagen: Wind farm
2015/S 090-161094**

Public works concession

Directive 2004/18/EC

Section I: Contracting authority

I.1) Name, addresses and contact point(s)

Energistyrelsen
Amaliegade 44
For the attention of: Lisbeth Nielsen, Peter Sehestedt
1256 Copenhagen K
DENMARK
Telephone: +45 33926700
E-mail: offshorewind@ens.dk
Fax: +45 33114743

Internet address(es):

General address of the contracting authority: <http://www.ens.dk>
Electronic access to information: <http://www.ens.dk/offshorewind>

Further information can be obtained from: The above mentioned contact point(s)

Specifications and additional documents (including documents for competitive dialogue and a dynamic purchasing system) can be obtained from: The above mentioned contact point(s)

Tenders or requests to participate must be sent to: The above mentioned contact point(s)

I.2) Type of the contracting authority

Ministry or any other national or federal authority, including their regional or local sub-divisions

1.3) Main activity

Other: responsible for production, supply and consumption of energy — as well as the efforts to reduce emissions of greenhous gasses

1.4) Contract award on behalf of other contracting authorities

The contracting authority is purchasing on behalf of other contracting authorities: no

Section II: Object of the concession

II.1) Description of the concession

II.1.1) Title attributed to the contract by the contracting authority:

New 600 MW Offshore Wind Tender in Denmark — Kriegers Flak.

II.1.2) Type of contract and location of works

NUTS code DK02

Main site or location of works Kriegers Flak in the Baltic Sea off the coast of Denmark.

II.1.3) Short description of the contract:

In March 2012, the Danish Government entered into an energy agreement with all but 1 of the political parties in the Danish Parliament. With the support of a broad majority of the members of the Danish Parliament the agreement secures the needed investments for a further step to improve Denmark's production of renewable energy. By the agreement and the later agreement on growth from June 2014, the parties have decided to

initiate a tendering process covering the installation of offshore wind turbines totaling approx. 1 350 MW, i.e. 400 MW at Horns Rev 3, 600 MW at Kriegers Flak, and 350 MW in near shore areas. A prior information notice was published in the Official Journal of the European Union for the first 2 offshore wind farms on 22.2.2013 and for the near shore areas on 26.9.2013.

This tender covers only the wind farm named Kriegers Flak to be situated in the Baltic Sea close to the border of Sweden and Germany and close to the German offshore wind farm Baltic 2. Further information is available at www.ens.dk/offshorewind under 'offshore wind tenders'. The coordinates for the pre-investigation area are listed in the technical project description for Kriegers Flak available at the mentioned website.

As part of the tender preparation, the Danish Energy Agency (DEA) has conducted a technical dialogue in the beginning of 2015. A short summary of the outcome of the discussions is also available at the mentioned website.

The contract will be awarded as a concession contract. The tender procedure is planned to be conducted according to the following preliminary timetable: Draft of the full tender specification (i.e. the tender documents), early October 2015. Deadline for application for pre-qualification is 1.10.2015 (see section IV.2.2). The deadline for submitting the preliminary tender is 5.4.2016. Shortly after this, negotiations with the tenderers will be conducted. The final tender specification will be published mid-June 2016. The deadline for the final tender is 8.11.2016. Soon after, the concession contract will be awarded together with the license for preliminary investigations and license for establishing the offshore wind farm before the end of 2021.

Any amendments to the timetable will be published on the above mentioned website.

The results of the preliminary survey of the geological conditions together with Met Ocean data have been provided by the Danish TSO, Energinet.dk, and published by DEA. Before submission of tenders there will also be an Environmental Impact Assessment (EIA) of the pre-investigation area, the substation, and the land cables. DEA will publish the full EIA as part of the mandatory public hearing in November or December 2015 on the above-mentioned website. The technical background reports supporting the marine part of the IEA for Kriegers Flak Offshore Wind Farm are already available at the webpage of the Danish TSO (www.ens.dk/offshorewind) and of Energinet.dk. The reports are available to all interested parties and are free of charge. Please note that updates/revisions of the reports may occur until final publication of the full EIA later in 2015. The pre-investigations, including a full EIA, provide the tenderers with an opportunity to submit a qualified and competitive price for Kriegers Flak.

Timely, establishment of the substations and cable to shore for Kriegers Flak is provided by the Danish TSO, Energinet.dk, and will be paid for by the electricity consumers. For Kriegers Flak the grid connection for 600 MW will be available from 1.1.2019 at the latest. There are clear rules of compensation of the concessionaire in case grid connection is not available. These rules will be stated in the tender documents.

The potential operators are expected to be large operators or joint ventures with sufficient references regarding construction of offshore wind farms. DEA recommends that smaller interested operators approach larger operators as potential sub-contractors or alternatively form joint ventures to obtain the necessary financial and technical capacity. A tenderer may rely on the experience and capacity, including the financial and economic capacity of other economic operators, cf. section III.1.2-III.1.3.

It is noted that the conditions for participation are also set up for the purpose of securing that the pre-qualified applicants meet the requirements regarding financial and technical capacity required to get a license for preliminary investigations, license for establishing the offshore wind farm and license for electricity production as well as an authorisation to produce electricity. The financing of the installation of the offshore wind farm is to be provided by the successful bidder. Licence for electricity production and authorisation will be given for 25 years with the possibility of prolongation if allowed under applicable regulation.

The concession contract offers a fixed price per kWh for a fixed amount of production (contract for the difference) which makes a very predictable income. The exact amount will be fixed in the tender documents. The fixed price will not be indexed.

II.1.4) **Common procurement vocabulary (CPV)**

31121340, 45000000, 31121320, 31121330, 31121310

II.2) **Quantity or scope of the contract**

II.2.1) **Total quantity or scope:**

The total installed capacity of the offshore wind farm is to be no less than 590 MW and no more than 610 MW. It is expected that the transmission capacity from the western transformer platform will be 200 MW, while the transmission capacity from the eastern transformer platform will be 400 MW.

II.2.2) **Minimum percentage of the works to be awarded to third parties:**

Section III: Legal, economic, financial and technical information

III.1) **Conditions for participation**

III.1.1) **Personal situation of economic operators, including requirements relating to enrolment on professional or trade registers**

Information and formalities necessary for evaluating if the requirements are met A. The applicant must submit a short description of the firm/company and the organisation of the applicant (including a description of the ownership structure).

B. If more than 1 economic operator (e.g. a consortium, a joint venture) jointly submits a request for pre-qualification, each participating party of the consortium must submit a short description of the economic operator/company and the organisation of the economic operator/company (including a description of the ownership structure). The organisation of the consortium/the joint venture must also be described (e.g. the division of tasks within the consortium/the joint venture).

C. An economic operator may in principle participate in the submission of more than 1 application for pre-qualification (e.g. as a member of different consortia). In that case, and in case of an economic operator associated with the applicant submitting application for pre-qualification, appropriate measures to maintain confidentiality and to protect the competitive process must be implemented. In these situations, the applicant must use different contact points (i.e. different personnel) in the applications submitted. Furthermore, the applicant must demonstrate to the reasonable satisfaction of DEA that it will maintain confidentiality and avoid distortion of the tender process. DEA reserves the right to exclude the applicant from further participation in the tender process if appropriate measures are not executed and maintained throughout the tender procedure.

D. If the concession contract is awarded to an applicant that consists of more than one economic operator (e.g. a consortium, a joint venture), all the economic operators are required to undertake joint and several liability and to authorise one representative in the business of the applicant. If the concession contract is awarded to an applicant that is a special purpose vehicle ("SPV") the owners are required to undertake joint and several liability. The scope of this liability will be explained in more detail in the Pre-Qualification Questionnaire (the PQQ) to be published shortly, and the exact terms will be stated in the final tender documents.

III.1.2) **Economic and financial ability**

Information and formalities necessary for evaluating if the requirements are met E. The applicant must submit a statement of the applicant's overall turnover (in International Financial Reporting Standards (IFRS): 'Revenue') for the 3 latest financial years and equity ratio as a percentage of total assets (total equity/ total assets x 100) for the latest financial year (i.e. 1 year only) as well as copies of the full annual report (including notes and appendices) and audited accounts for each of the previous 3 financial years available. By 'financial years' is meant either calendar years or accounting periods.

F. The applicant is asked to submit information on the applicant's long term debt rating if relevant (see section VI.2, no. 6 (II)). It is not required that the applicant provides this information, however, the information can be of relevance in regards to meeting the minimum requirements, see section VI.2), no. 6.

G. If more than 1 economic operator submits an application for pre-qualification (e.g. a consortium, a joint venture) all the participating parties must submit their own documentation and information, see letter E and F.

H. If the applicant relies on the economic and financial capacity of other economic operators (e.g. a partner, a parent company, founding companies/future owners, or one or more affiliated companies), the applicant must submit documentation and information of the other economic operators see letter E, F and G. Furthermore, the applicant must prove that the applicant has at its disposal the necessary resources, for instance by providing documentation that the applicant can rely on the capacities of the other economic operators in this respect.

I. If an economic operator is authorised by a national financial supervisory authority to provide financial services falling under the scope of the EU Capital Requirement Directive (CRD III and/or CRD IV), the Solvency II Directive or any similar financial regulation including, but not limited to, regulation based on the Basel II Accord and/or Basel 2.5 and the Basel III Accord (hereinafter a 'Financial Institution') and the Financial Institution is an economic operator as mentioned in letters G and H above, the following documentation and information must be submitted regarding the said Financial Institution:

(I) copies of the full annual report (including notes and appendices) and audited accounts for each of the previous 3 financial years available (by 'financial years' is meant either calendar years or accounting periods), and

(II) documentation of compliance regarding the regulatory solvency requirement and any additional individual solvency requirements laid down by the national financial supervisory authority (the date of this documentation must not precede the expiry of the application deadline with more than 4 months),

(III) a statement of the Financial Institution's overall turnover of the 3 latest financial years available.

J. If the concession contract is awarded to an applicant that relies on the economic/financial capacity of other economic operators (e.g. a partner, a parent company, subcontractors, founding companies/future owners, or 1 or more affiliated companies), these other economic operators will be required to undertake joint and several liability together with the applicant when the contract is signed (but not for the pre-qualification). The scope of this liability will be explained in more detail in the Pre-Qualification Questionnaire (the PQQ) to be published shortly. The exact terms will be stated in the final tender documents.

III.1.3) **Technical capacity**

Information and formalities necessary for evaluating if the requirements are met K. The applicant must provide documentation for references within the listed areas regarding 'Project development and management of construction of offshore wind farms'.

A maximum of 5 references must be submitted. The references may relate to completed projects as well as to projects that are still under construction (see section VI.2). no. 7). For each project used as a reference the applicant is asked to provide the following information:

- a) Name of offshore wind farm;
- b) Contact person at the contracting entity, the authority who awards license or the like (preferably including phone number and email address);
- c) Contract signing date/ Date of concession, permit, license etc.;
- d) Location of the offshore wind farm;
- e) Planned capacity of the project (MW), and installed capacity of the project (MW);
- f) The applicant's role (i.e. owner, main consultant, sub-contractor, member of a consortium, constructor, or other);

g) The applicant's contribution to the project within the following key areas: Project planning and management, design, management of construction and quality control of offshore wind farms and finally procurement/contract negotiation;

h) Information regarding whether fixed external deadlines for (partial) completion were met (i.e. deadlines for connection of first and last offshore wind turbine to internal grid etc.). If no external deadlines were applied, the applicant is asked to provide information regarding internal deadlines. Finally, the applicant is asked to provide an explanation of why a fixed deadline (external or internal) was not met, if relevant.

i) The current stage of the project and the period the applicant has been assigned to the project.

L. DEA reserves the right to verify any information provided as part of a reference, see letter K above, and requires that the applicant consents to the release of any and all information from any contracting entity (or the like) identified in the application.

M. If the applicant relies on the experience or capacity of other economic operators (e.g. a partner, a parent company, subcontractors, founding companies/future owners, or 1 or more affiliated companies), the applicant must submit documentation and information for these other economic operators, see letter K above. Furthermore, the applicant must prove that the applicant has at its disposal the necessary resources, for instance by providing documentation that the applicant can rely on the capacities of the other economic operators in this respect.

N. If the concession contract is awarded to an applicant that in respect of technical capacity, see letter K above, is relying on the technical capacity of other economic operators (e.g. a partner, a parent company, a subcontractor, founding companies/future owners, or 1 or more affiliated companies), and the applicant does not without these other economic operators meet the minimum requirement on technical capacity stated under section VI.2) no. 7 below, these other economic operators will be required to undertake joint and several liability together with the applicant when the contract is signed (but not for the pre-qualification). The scope of this liability will be explained in more detail in the Pre-Qualification Questionnaire (the PQQ) to be published shortly and the exact terms will be stated in the final tender documents.

Section IV: Procedure

IV.1) **Award criteria:**

Lowest price in terms of the criteria stated in the specifications in the tender documents.

IV.2) **Administrative information**

IV.2.1) **File reference number attributed by the contracting authority:**

IV.2.2) **Time-limit for the submission of applications**

Date: 1.10.2015 - 13:00

IV.2.3) **Language(s) in which applications may be submitted**

Danish. English.

Section VI: Complementary information

VI.1) **Information about European Union funds**

The contract is related to a project and/or programme financed by European Union funds: no

VI.2) **Additional information:**

1. DEA will invite a maximum of 10 applicants.

2. An application is asked to be sent in 1 original application in hard copy, 2 hard copies of the original and 1 electronic copy of the application.

3. All questions must be sent — in English — to offshorewind@ens.dk Copies of all questions and answers will be published on www.ens.dk/offshorewind in a depersonalised form and on an on-going basis. Further

information including the Pre-Qualification Questionnaire (the PQQ) will be posted on the website, so please visit the website mentioned above in section II.1.3) regularly.

4. Pre-printed material (e.g. financial accounts) may also be submitted in Swedish or Norwegian.

5. Information provided by applicants will not be disclosed to outsiders unless DEA is obliged to do so under applicable law. However, DEA reserves the right to verify any information provided.

6. (Financial minimum requirements according to III.1.2)).

In order to be considered for pre-qualification the applicant must meet the following minimum requirements regarding section III.1.2):

(I) the applicant must have an annual overall turnover (in IFRS: 'revenue') of minimum 15 billion DKK (calculated as an average of the last 3 financial years available), and

(II) The applicant must have an equity ratio (total equity/total assets x 100) of 20 % or above OR a long term debt rating of BBB- or above (Standard & Poor's and Fitch) and/or Baa3 or above (Moody's) or an equivalent rating from another reputable international credit rating agency.

If the applicant consists of more than 1 economic operator and/or the applicant relies on the turnover of other economic operators in order to meet the financial minimum requirements the combined sum of yearly overall turnover of all of the economic operators must pass the threshold for overall turnover (in average over the last 3 years) and each economic operator must either pass the threshold for equity ratio (total equity/total assets) or credit rating to meet the financial minimum requirements. The same will apply for the founding companies/future owners if the applicant is a company that is not established at the time of pre-qualification application.

For Financial Institutions as defined in section III.1.2), letter I, the following financial minimum requirement applies in particular as an alternative to the financial minimum requirements set forth in item (II) above:

(III) The Financial Institution must comply with the regulatory solvency requirement and any additional individual solvency requirements as laid down by the national financial supervisory authority (the date of this documentation must not precede the expiry of the application deadline with more than 4 months).

If the overall turnover is stated in another currency than DKK, DEA will translate the amount stated to DKK in accordance with the exchange rate on www.nationalbanken.dk at the time of the deadline for pre-qualification.

7. (minimum requirement according to III.1.3) above: technical capacity):

In order to be considered for pre-qualification the applicant must also meet the following minimum requirement regarding section III.1.3):

(I) The applicant must have at least one reference within project development and management of construction regarding an offshore wind farm of minimum 150 MW installed capacity, including all the key areas mentioned in section III.1.3, letter K, litra g); the reference must concern a project where the instalment of the turbines have been completed and the wind farm is ready for production. It is not a requirement that the 150 MW installed capacity are connected to the grid at the time of deadline for pre-qualification.

If the applicant consists of more than one economic operator and/or the applicant relies on the technical capacity of other economic operators in order to meet the technical minimum requirements the sum of references for the economic operators shall meet the minimum requirements above (i.e. it is not required that each single economic operator meets the technical minimum requirements above).

8. (selection):

Reduction of the number of applicants who meet the minimum requirements (if more than 10 applicants meet the minimum requirements in no. 6 and 7) will take place on the basis of:

(I) the applicants who have the most relevant references regarding project development and management of construction of offshore wind farms in relation to the assignment put up for tender.

9. (changes):

As a main rule, a tenderer, including members of a consortium bidding for the contract, cannot be replaced or supplemented during the tender procedure with one or more economic operator(s). If a tenderer should nevertheless wish to do so, it is only possible with the prior written consent of the DEA. When deciding if a request of change is acceptable, the DEA will assess present law at the time of the request and the general nature and extent of the change, including whether the tenderer would have been pre-qualified with the relevant change.

If a tenderer who relies on the economic/financial ability or technical capacity of other legal entities (e.g. a partner, a parent company or 1 or more affiliated companies), in the course of the tender procedure requires to replace such legal entity on which it has relied with another legal entity, this can only take place with the prior written consent of the DEA. When deciding whether to allow a change, the DEA will assess applicable law at the time of the request and the general nature and extent of the change, including whether the tenderer would have been pre-qualified with the relevant change.

10. (bonds and related guarantees):

In order to ensure that only genuine, professional project developers submit tenders, it is DEA's intention to introduce a penalty for defective performance for the duration of the construction of the farm in the tender documents. It is expected that the penalty will be 150 000 000 DKK from 0-4 months from signing of the concession contract and 450 000 000 DKK from 4 months and until connection of first offshore wind turbine to grid. However, note that the exact amount of the penalty will not be fixed until the release of the final tender documents.

In order to ensure payment of this penalty the DEA intends to demand that the successful bidder provides a guarantee. This guarantee must be valid from the signing of the concession contract and until a capex of 1 billion DKK has been spent on the project by the concessionaire. The guarantee must cover the full penalty (i.e. the guarantee must cover about 150 000 000 DKK from 0-4 months and around 450 000 000 DKK from 4 months and until a capex of DKK 1 billion has been spent on the project by the concessionaire). The guarantee can be provided in such a manner that minimum 150 000 000 DKK is guaranteed by a financial institution, insurance company or the like acceptable to DEA, with a rating of A- or above. The remaining 300 000 000 DKK can then be covered by a parent company guarantee in case the applicant wishes to do so. The conditions will be stated in the tender documents. A letter of intent regarding the guarantee must be included in the first indicative bid.

In order to ensure the commissioning of the wind farm by 1.1.2022 and the obligation to decommission the wind farm, the tender documents will furthermore include terms regarding a reduction of the production eligible for subsidies in case of late commissioning of the wind farm and the requirement for a decommissioning guarantee. The terms will be stated in the tender documents.

11. The concession contract will contain a standard ILO-convention labour clause. The concession agreement will also contain a social clause (creation of apprenticeship). For more information on the scope of the labour and social clauses please consult the final tender conditions for the Horns Rev 3 project as the DEA intends to build on these, see legal corner at www.ens.dk/offshorewind

VI.3) **Procedures for appeal**

VI.3.1) **Body responsible for appeal procedures**

Klagenævnet for Udbud
Dahlerups Pakhus, Langelinie Allé 17
2100 København Ø
DENMARK
E-mail: kfu@erst.dk
Telephone: +45 35291000

Internet address: www.klfu.dk

VI.3.2) Lodging of appeals

Precise information on deadline(s) for lodging appeals According to the Danish Act no. 492 of 12.5.2010 on the Enforcement of the Rules of Procurement, etc., with subsequent amendments, cf. www.retsinformation.dk the following deadlines apply for lodging of complaints:

Complaints regarding an applicant not being selected (pre-qualified) must be lodged with the Complaints Board for Public Procurement (Klagenævnet for Udbud) within 20 calendar days starting the day after the contracting authority has sent a notification to all interested applicants informing them of the pre-qualification, and on the condition that the notification has included a short explanation of the relevant ground for the decision.

The e-mail address of the Complaints Board for Public Procurement is set out in section VI.3.1).

VI.3.3) Service from which information about the lodging of appeals may be obtained

Konkurrence- og Forbrugerstyrelsen

Carl Jacobsens Vej 35

2500 Valby

DENMARK

E-mail: kfst@kfst.dk

Telephone: +45 41715000

Internet address: www.kfst.dk

Fax: +45 41715100

VI.4) Date of dispatch of this notice:

6.5.2015