

Published on 10-01-2018

Id nr.	Date	Question	Answer
QA1	19-12-2017	I have completed the ESPD and under section 8.1 of the tender conditions its asking to press "Export", unfortunately this function is not available, what do I do now?	Reference is made to "ESPD Update 19.12.2017 Regarding ESPD": After having completed the ESPD, press "Overview" and afterwards scroll down and press "Download as" remember to save the XML-file. The XML-file must be submitted to Lokaltog's contact person, as part of the request for participation. (Section 8.1 in the Tender Conditions has been updated and put on the homepage <a href="http://www.lokaltog.dk/erhverv/udbud/">http://www.lokaltog.dk/erhverv/udbud/</a> .)
QA2	21-12-2017	Should the eESPD be signed?	Reference is made to "Update 21.12.2017 Regarding ESPD": The tenderers are not going to sign the ESPD, but the tenderers are in Part VI of the ESPD only going to insert date and location.
QA3	04-01-2018	With reference to Appendix 3 (Draft Overhaul Agreement) I would like to ask the following question: Is the contract negotiable? Will it be negotiated with the winning tenderer or it is to be taken as it is? Some Clauses are not clear, e.g. :- §9 and §10: Who is in charge of the spare parts stock contractor or customer? Who will be responsible/liable for works done at Lokaltog in case of defect? - §11: different open questions to Liability - a. o.	The appendix 3, Draft Overhaul Agreement, is not negotiable. It is the Contractor who is responsible for the storage of Replacement Spare Components Stock, cf. §10.3 and §10.4, as long as the Performance guarantee is in force to secure timely remedy of defects by the Contractor, cf. §9.3. §9.2 concerns Lokaltog's own stock of spare engines and hydraulic systems to be used by Lokaltog in the disassembly and assembly of trains to secure a smooth and timely overhaul process. The Performance Guarantee also applies to overhauled Parts put in this stock by Lokaltog. When the Contractor is remedying a defect under the Performance Guarantee, the Contractor shall use its own Replacement Spare Components. In case of a defect Lokaltog will only dismount and/or remount the defective component at the expense of the Contractor to enable the Contractor to remedy or replace the defective component. The Contractor is solely responsible for rectification of defects at the facilities of Lokaltog. The purpose of rectification of defects at Lokaltog's facilities is to ensure a faster rectification.
QA4	04-01-2018	May I ask additional questions to the draft agreement:- In §9 is stated that Lokaltog will have spares on stock but in §10 is mentioned that the contractor should provide the spares. Please advise who will provide spares  - In §9 is stated that Lokaltog expects to start with remedies within 24 Hours, if desired, and finish them after 12 from the start. And in §10.1 it is mentioned that Lokaltog will inform the contractor within 30 days after Lokaltog has discovered the defect. Does this mean that then the contractor will have to start remedies within 24 Hours if desired by Lokaltog?  - In §10.2 it is mentioned that Lokaltog performs all work in connection with the dismantling and/or remounting at the expense of the Contractor. How expected costs are to be calculated?  - In §11 unlimited liability is required, but Lokaltog will build the components in the power packs. How are responsibilities defined in this case? Please advise	Regarding §9.2. Lokaltog itself has a buffer stock of spare engines and hydraulic systems. These are not provided by the Contractor. The Contractor must provide an appropriate amount of replacement spare components to use in the remedy of eventual defects, see Clause 10.4. The spare components to be delivered by the Contractor simultaneously with the first pick-up will be defined by Contractor in Exhibit 4 to Appendix 3 as part of the Contractor's tender bid.  Regarding §9.3. The Contractor shall guarantee that his maintenance and support team can begin remedies within 24 hours of being notified of the defect by Lokaltog.  Regarding §10.2 Lokaltog will make a cost estimate of the specific hours and other costs used and inform about this to the contractor. Lokaltog uses the following hour rate for own people: <b>418 DKK exclusive VAT</b> and only our actual cost will be expected to be covered by the contractor.  Regarding §11 Lokaltog's employees are competent to do maintenance and build in overhauled parts/components. The Contractor is liable for the Services that is delivered by the Contractor or his subcontractor(s), if any, in the way as it is stated in the §11. If a defect occurs due to other services/parts/tasks not delivered by the contractor, then the contractor is not liable for these (any eventual claims will be handled on a case-by-case assessment of the defect between Lokaltog and the Contractor).
QA5	27-12-2017	Due to Christmas and New year we will like to ask is it possible to get 2 to 3 weeks more to Produce the offer and get it approved ?	The Time Schedule, cf. § 4 of the Tender Conditions, is kept as it is. Thus, the deadline for handing in the offer is 16 January 2018.
QA6	04-01-2018	Question to Tender Conditions article 4 "Indicative Time schedule". The Contractor kindly requests Lokaltog to extend the date "Deadline for submission of question" and the date "Offer submission deadline" with 2 weeks each. Such extension does in the opinion of the Contractor not impact the expected date for startup on 12 March 2018.  The reason for the requested time extension is the strong need for further commercial and technical clarification both internally and towards Lokaltog. The tender material contains burdensome conditions and requirements and as the tender procedure does not allow for later negotiations of the contract, all uncertainties need to be clarified prior to submission of the offer. This is not possible within the very limited period of time which has been given for the preparation of the offer.	The Time Schedule, cf. § 4 of the Tender Conditions, is kept as it is. Thus, the deadline for handing in the offer is 16 January 2018.
QA7	04-01-2018	Question to Tender Conditions article 5 "Written Questions" Lokaltog states that all questions will be answered no later than 6 days before the offer submission deadline. In case Lokaltog allows a time extension of two weeks, Lokaltog is kindly requested to change the 6 days, so that answers shall be given no later than 14 days before offer submission date. It is not sufficient time to get answers 6 days before submission of the offer. This does not allow the bidders to take the answers into consideration and to evaluate any potential influences on their offers.	§ 5 of the Tender Conditions will not be changed. It is noted that answering questions no later than six days before the offer submission deadline is in compliance with the public procurement rules.
QA8	04-01-2018	Question to Appendix 3 "Overhaul Agreement" article 4 "Time Schedule". According to article 4.6 the Contractor shall pay liquidated damages in case of delay. The overall cap on liquidated damages is 20% of the Contract Price for any delayed part and this is a very high amount also in consideration of the extremely tough time line and delivery requirements. Lokaltog is kindly requested to replace the cap on 20% with 15%.  Furthermore Lokaltog is kindly requested to include that liquidated damages according to article 4.6 shall be the sole monetary remedy of Lokaltog and that no further damages can be claimed according to Danish law in connection with delay. Such exclusion of further damages reflects normal practice and marked standards.  Lokaltog is kindly requested to change article 4.6. to following:  "In case the Contractor fails to deliver the Services in accordance with the Time Schedule, the Contractor shall as the sole monetary remedy in connection with delay pay 0.5 % of the Contract Price for the delayed Parts exclusive VAT for each commenced calendar day the return of the Parts is delayed. The aggregate amount to be paid by the Contractor for delay cannot exceed 15 % of the Contract Price."	§ 4.6 in the Overhaul Agreement will be modified as follows: "In case the Contractor fails to deliver the Services in accordance with the Time Schedule, the Contractor shall as the sole monetary remedy for the delay pay 0.5 % of the Contract Price for the delayed Parts exclusive VAT for each commenced calendar day the return of the Parts is delayed. The aggregate amount to be paid by the Contractor for any delayed Part cannot exceed 20 % of the Contract Price."
QA9	04-01-2018	Question to Appendix 3 "Overhaul Agreement" article 4 "Time Schedule". Lokaltog is kindly requested to add following to article 4.5 due to the burdensome conditions if the Time Schedule is extended.  "Any such revised Time Schedule cannot be extended beyond the original contract period without additional costs."	The following is added to § 4.5: "Any such revised Time Schedule cannot be extended with more than 60 calendar days beyond the Time Schedule without payment of compensation by Lokaltog to the Contractor of documented additional external costs."
QA10	04-01-2018	Question to Appendix 3 "Overhaul Agreement" article 11 "Liability". According to article 11.2 the Contractor's liability includes liability for indirect damages. Liability for indirect losses and damages is an unusual and very burdensome condition for a contractor and something which is usually not accepted.  The Contractor kindly asks Lokaltog to exclude liability for indirect or consequential losses and to change article 11.2 to following: "The Contractor's liability includes liability for direct damages incurred by Lokaltog and damage to the trains and other property owned by Lokaltog or third parties. The Contractor shall in no event be liable for indirect or consequential losses or damages including but not limited to loss of use, income, data or profit, or interrupted operation."	The Contractor is liable for the services he delivers in the way as it is stated in the §11.
QA11	04-01-2018	Question to Appendix 3 "Overhaul Agreement" article 11 "Liability". The Overhaul Agreement does not include a limitation of liability. Unlimited liability is an unusual and burdensome requirement and can potentially lead to losses and claims imposed by the contractor which are significantly higher than the contract value.  The Contractor kindly asks Lokaltog to insert a limitation of liability and suggests DKK 7.500.000 in aggregated liability including liquidated damages and product liability (except for personal injury). If the proposed limitation is not acceptable Lokaltog is kindly requested to propose another amount which is reasonable for both parties.	The following is added to § 11.2: "Liability for damages to trains and other property owned by Lokaltog or third parties cannot exceed DKK 25,000,000."
QA12	04-01-2018	Question to Appendix 2 "Technical Specification and Minimum Requirements". Lokaltog is kindly requested to clarify the following technical uncertainties:  a) Definition of scope; is it only the engine block that is to be overhauled or is it the entire Power Pack in its frame including the frame itself, cooling, gear, exhaust, generator, hydraulics, mounting devices etc. b) If question a) is "only engine" who will have the risk of the entire system performance (emissions, efficiency, power, ) and warranty? c) Is the suppliers manual for Power Pack overhaul (document: Reman-Bahn-PowerPack mit MTU-Motor 6H1800R82 und ZF-Getriebe 5HP902x) to be followed? This is not included in the material supplied. d) Will Lokaltog supply transport devices for the defined overhauled equipment to be shipped. We suggest to do the overhaul of the entire Power Pack according to MTU's Reman concept. This will ensure performance and clear responsibilities.	Regarding a) see what is defined in Appendix 2 of the tender material and in the tender conditions. Regarding b) it is the responsibility of the overhauler of the engine to document by use of a test system that the engine complies with the performance requirements. The contractor has the "warranty risk" on the Service delivered. Regarding c) See Tender Appendix 2 and the Exhibit 1+2 of it. Regarding d) If no transport devices are put in the offer lokaltog will supply this, however this issue will be evaluated in the tenders bids under the sub criterion Quality(Offered Solution). The concept of the overhaul is defined in the tender material and Lokaltog do not intend to change this.
QA13	04-01-2018	Question to Overhaul Agreement. The documents Exhibit 2, Exhibit 3, Exhibit 4 and Exhibit 5 are not included in the tender material. When can we expect to receive the documents and will there be a separate Q&A session for these as the latest date for questions is today.	Exhibit 2 is a part of the tenderer's bid hence it shall not be put in the tender material. Exhibit 3: Reference to our Maintenance documentation from the supplier should have been put with the document "Appendix 3_Tender Cond_Overhaul Agg with exhibit 3". On specific claims of non compliance of maintenance you can get access to our documentation of our maintenance during the contract period. Reference is now updated (page 12+13 is added) on the homepage <a href="http://www.lokaltog.dk/erhverv/udbud/">http://www.lokaltog.dk/erhverv/udbud/</a> . Exhibit 4 is the tenderer's Replacement Spare Component Stock and the property of the contractor, hence it shall not be put in the tender material. Exhibit 5 is the insurance policy of the contractor, hence it shall not be put in the tender material.
QA14	10-01-2018	I am a little confused at what stage of the tender process the ESPD has to be submitted so see attached.	The tender is required to submit the ESPD together with its offer, cf. section 7.2 of the Tender Conditions. In Part IV.B of the ESPD, the tenderer shall state the amount of its liability insurance, cf. section 8.3 of the Tender Conditions. The tenderer shall not together with the ESPD submit documentation for the information in the ESPD, including documentation of its liability insurance. Such documentation shall only be submitted by the tenderer with whom Lokaltog intends to enter into the contract. This tenderer will be informed hereof by Lokaltog prior to the award of the contract.