

This is a published notice on the Find a Tender service: <https://www.find-tender.service.gov.uk/Notice/017404-2023>

Award

Decarbonisation Programme - Project CoPPA

Network Rail Infrastructure Ltd

F15: Voluntary ex ante transparency notice

Notice identifier: 2023/S 000-017404

Procurement identifier (OCID): ocds-h6vhtk-03d7a7

Published 19 June 2023, 4:45pm

Section I: Contracting authority/entity

I.1) Name and addresses

Network Rail Infrastructure Ltd

Waterloo General Offices

London

SE1 8SW

Email

procurement@networkrail.co.uk

Telephone

+44 1908781000

Country

United Kingdom

Region code

UK - United Kingdom

National registration number

2904587

Internet address(es)

Main address

www.networkrail.co.uk

Buyer's address

www.networkrail.co.uk

I.6) Main activity

Railway services

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Decarbonisation Programme - Project CoPPA

II.1.2) Main CPV code

- 09300000 - Electricity, heating, solar and nuclear energy

II.1.3) Type of contract

Supplies

II.1.4) Short description

The procurement falls outside the scope of application of the regulations

Explanation:

This notice relates to a permitted modification to revise the price of a corporate power purchase agreement (the cPPA) originally awarded on 28 July 2022, following a competitive award process using the negotiated procedure in accordance with the Utilities Contracts Regulations 2016 (UCR). The cPPA is a national contract for the supply to NR of a target P50 volume of 63.8GWh per annum of renewable electricity for 15 years. The renewable electricity will be generated by a solar PV facility to be constructed, operated and maintained by the supplier. The solar PV facility will have a target installed capacity of 60 MWp \pm 10%, with the supplier guaranteeing a minimum technical availability of 93%. The renewable electricity to be supplied to NR under the cPPA will be supplied on an "as available" basis using a sleeving arrangement with a third party licensed electricity supplier and the relevant volumes supplied will be utilised by NR's non-traction business (e.g. managed stations, offices and depots).

Please note that certain of the core supplier requirements referred to above differ from those listed in the contract award notice published on 19 August 2022 as the core supplier requirements stated herein represent the final core supplier requirements in the executed cPPA entered into between NR and the supplier on 28 July 2022.

The cPPA was made conditional on the supplier achieving a final investment decision (FID) by 31 March 2023 (FID Milestone Delivery Date).

Following a series of successive, substantial and unforeseen rises in the European

Central Bank (ECB) interest rates for Main Refinancing Operations (fixed rate tenders) over the period from 30 November 2021 to 12 May 2022, the underlying financial model supporting the original cPPA pricing could no longer produce a return on investment for the supplier to reach FID.

Accordingly, the supplier has proposed, and NR has agreed to make, a revision to the total price of the cPPA that results in an increase of under 50%, from £53.32 million to £79.80 million. The price increase involves the ECB interest rates increasing from 0% in November 2021 to 3.75% in May 2023.. There will also be a new FID Milestone Delivery Date of 30 September 2023 in the revised cPPA.

NR is revising the cPPA through a variation agreement. The revision of the cPPA by NR is a permitted modification under the UCR. It is permitted by the exemption in Regulation 88(1)(c). For completeness, and to maximise transparency, NR will also publish a modification notice under Regulation 88(2) in due course after the variation agreement is entered into.

II.1.6) Information about lots

This contract is divided into lots: No

II.1.7) Total value of the procurement (excluding VAT)

Value excluding VAT: £79,800,000

II.2) Description

II.2.2) Additional CPV code(s)

- 09310000 - Electricity

II.2.3) Place of performance

NUTS codes

- UK - United Kingdom

Main site or place of performance

Throughout the UK

II.2.4) Description of the procurement

The procurement falls outside the scope of application of the regulations

Explanation:

This notice relates to a permitted modification to revise the price of a corporate power purchase agreement (the cPPA) originally awarded on 28 July 2022, following a competitive award process using the negotiated procedure in accordance with the Utilities Contracts Regulations 2016 (UCR). The cPPA is a national contract for the supply to NR of a target P50 volume of 63.8GWh per annum of renewable electricity for 15 years. The renewable electricity will be generated by a solar PV facility to be constructed, operated and maintained by the supplier. The solar PV facility will have a target installed capacity of 60 MWp \pm 10%, with the supplier guaranteeing a minimum technical availability of 93%. The renewable electricity to be supplied to NR under the cPPA will be supplied on an "as available" basis using a sleeving arrangement with a third party licensed electricity supplier and the relevant volumes supplied will be utilised by NR's non-traction business (e.g. managed stations, offices and depots).

Please note that certain of the core supplier requirements referred to above differ from those listed in the contract award notice published on 19 August 2022 as the core supplier requirements stated herein represent the final core supplier requirements in the executed cPPA entered into between NR and the supplier on 28 July 2022.

The cPPA was made conditional on the supplier achieving a final investment decision (FID) by 31 March 2023 (FID Milestone Delivery Date).

Following a series of successive, substantial and unforeseen rises in the European Central Bank (ECB) interest rates for Main Refinancing Operations (fixed rate tenders) over the period from 30 November 2021 to 12 May 2022, the underlying financial model supporting the original cPPA pricing could no longer produce a return on investment for the supplier to reach FID.

Accordingly, the supplier has proposed, and NR has agreed to make, a revision to the total price of the cPPA that results in an increase of under 50%, from £53.32 million to £79.80 million. The price increase involves the ECB interest rates increasing from 0% in November 2021 to 3.75% in May 2023.. There will also be a new FID Milestone Delivery Date of 30 September 2023 in the revised cPPA.

NR is revising the cPPA through a variation agreement. The revision of the cPPA by NR is a permitted modification under the UCR. It is permitted by the exemption in Regulation 88(1)(c). For completeness, and to maximise transparency, NR will also publish a modification notice under Regulation 88(2) in due course after the variation agreement is entered into.

The revision is permitted by Regulation 88(1)(c) because:

(1) The need for modification has been brought about by circumstances which a diligent utility could not have foreseen: those circumstances are the unprecedented rise in ECB interest rates impacting the supplier's financing of the project to an unmanageable

degree, and the need for modification is brought about because of the impact of that rise on the viability of the new renewable energy site that the cPPA concerns, and the wider impact on the energy generation sector which means there are no viable alternative solutions at the original cPPA pricing. Neither the supplier nor NR, nor any diligent utility, could have foreseen the scale of the interest rate rises and the speed at which these would be introduced. In awarding the cPPA, NR had an express, overarching aim of delivering additionality, helping bring forward a new renewable energy site that would not otherwise have been developed. The revision described in this notice is a proportionate response to the unforeseen circumstances and what is needed to deliver this new renewable energy project, set in the context of achieving that overarching aim.

(2) The modification does not alter the overall nature of the contract. It remains an agreement for the supply of renewable electricity to NR from the same renewable source, meeting the same technical requirements, generated at the same new site, for a 15 year supply period, continuing to meet the overarching aim of additionality that underpinned NR's original cPPA award.

II.2.11) Information about options

Options: No

II.2.13) Information about European Union Funds

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

II.2.14) Additional information

NR will not enter into the amendment agreement to revise the cPPA until after a period of at least 10 days beginning with the day after the date on which this notice is published.

Section IV. Procedure

IV.1) Description

IV.1.1) Type of procedure

Award of a contract without prior publication of a call for competition in the cases listed below

- The procurement falls outside the scope of application of the regulations

Explanation:

See II.2.4) Description of the procurement for explanation.

IV.1.8) Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: No

Section V. Award of contract/concession

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

16 June 2023

V.2.2) Information about tenders

The contract has been awarded to a group of economic operators: No

V.2.3) Name and address of the contractor/concessionaire

EDF Energy Renewables Ltd

Alexander House, 1 Mandarin Road, Rainton Bridge Business Park, Houghton Le Spring

Sunderland

DH4 5RA

Country

United Kingdom

NUTS code

- UK - United Kingdom

National registration number

06456689

The contractor/concessionaire is an SME

No

V.2.5) Information about subcontracting

The contract/lot/concession is likely to be subcontracted

Section VI. Complementary information

VI.3) Additional information

NR will not enter into the amendment agreement to revise the cPPA until after a period of at least 10 days beginning with the day after the date on which this notice is published.

VI.4) Procedures for review

VI.4.1) Review body

The High Court

Little George St, London Town

London

SW1P 3BD

Country

United Kingdom