

**Supplement to the Official Journal of the European Union**Info and online forms: <http://simap.ted.europa.eu>**VOLUNTARY EX ANTE TRANSPARENCY NOTICE**Directive 2014/23/EU ☐Directive 2014/24/EU ☒Directive 2014/25/EU ☐Directive 2009/81/EC ☐

This notice aims at providing voluntary prior transparency as referred to in Article 2d(4) of Directives 89/665/EEC and 92/13/EEC on remedies, and Article 60(4) of Directive 2009/81/EC.

**SECTION I: CONTRACTING AUTHORITY/ENTITY****I.1) Name and addresses**

Official name: Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit beschränkter Haftung			National registration number:
Postal address: Wagramer Straße 19			
Town: Wien	NUTS code: AT13	Postal code: 1220	Country: Austria
Contact person:			Telephone: +43 51703-1840
E-mail: vergabeservices@austrocontrol.at			Fax: +43 51703-1846
Internet address(es) Main address: (URL) <a href="http://www.austrocontrol.at">www.austrocontrol.at</a> Address of the buyer profile: (URL)			

**I.4) TYPE OF THE CONTRACTING AUTHORITY**

<input type="checkbox"/> Ministry or any other national or federal authority, including their regional or local subdivisions	<input checked="" type="checkbox"/> Body governed by public law
<input type="checkbox"/> National or federal agency/office	<input type="checkbox"/> European institution/agency or international organisation
<input type="checkbox"/> Regional or local authority	<input type="checkbox"/> Other:
<input type="checkbox"/> Regional or local agency/office	

**I.5) MAIN ACTIVITY**

<input type="checkbox"/> General public services	<input type="checkbox"/> Housing and community amenities
<input type="checkbox"/> Defence	<input type="checkbox"/> Social protection
<input type="checkbox"/> Public order and safety	<input type="checkbox"/> Recreation, culture and religion
<input type="checkbox"/> Environment	<input type="checkbox"/> Education
<input type="checkbox"/> Economic and financial affairs	<input checked="" type="checkbox"/> Other activity: Flugsicherung
<input type="checkbox"/> Health	

<input type="checkbox"/> Production, transport and distribution of gas and heat	<input type="checkbox"/> Postal services
<input type="checkbox"/> Electricity	<input type="checkbox"/> Railway services
<input type="checkbox"/> Extraction of gas and oil	<input type="checkbox"/> Urban railway, tramway, trolleybus or bus services
<input type="checkbox"/> Exploration and extraction of coal and other solid fuels	<input type="checkbox"/> Port-related activities
<input type="checkbox"/> Water	<input type="checkbox"/> Airport-related activities
	<input type="checkbox"/> Other:

## **II.1) Scope of the procurement**

<b>II.1.1) Title:</b> ADD Upgrade	<b>Reference number:</b> 2019_09
<b>II.1.2) Main CPV-Code:</b> 50324100 <b>Supplementary CPV-Code:</b> [ ] [ ] [ ] [ ] [ ] [ ] [ ]	
<b>II.1.3) Type of contract</b> <input type="radio"/> Works <input type="radio"/> Supplies <input checked="" type="radio"/> Services	
<b>II.1.4) Short description:</b> Austro Control GmbH beschafft einen unbefristeten Maturing- und Maintenance Vertrag für den ADD Upgrade auf Mainstream.	
<b>II.1.6) Information about lots</b>	
This contract is divided into lots <input type="radio"/> yes <input checked="" type="radio"/> no	
<b>II.1.7) Total value of the procurement (excluding VAT)</b>	
Value: [605000,00] (Please give the total value of the procurement. For information about individual contracts, please use section V)	
or	
Lowest offer: [ ] / Highest offer:[ ] taken into consideration	
Currency: EUR	
(for framework agreements – total maximum value for their entire duration)	
(for contracts based on framework agreements, if required – value of contract(s) not included in previous contract award notices)	

<b>II.2.1)TITLE: ADD UPGRADE</b>	
<b>II.2.2) Additional CPV code(s)</b> Additional CPV code: [ ][ ]-[ ][ ]-[ ][ ][ ][ ] Supplementary CPV code: [ ][ ][ ][ ] [ ][ ][ ][ ]	
<b>II.2.3) Place of performance</b>  NUTS code: AT Main site or place of performance: Österreich	
<b>II.2.4) Description of the procurement:</b> Die Austro Control beschafft einen unbefristeten Maturing- und Maintenance Vertrag für den ADD Upgrade auf Mainstream. (nature and quantity of works, supplies or services)	
<b>II.2.5) Award criteria</b>  (Directive 2014/24/EU / Directive 2014/25/EU)  <input checked="" type="checkbox"/> Quality criterion  Name: Qualität / Weighting: 50  <input type="radio"/> Cost criterion	

<input checked="" type="radio"/> Price Price – Weighting: 50
(Directive 2014/23/EU) Criterion:
(Directive 2009/81/EC) <input type="radio"/> Lowest price <input type="radio"/> The most economically advantageous tender in terms of Criterion: / Weighting:
<b>II.2.11) Information about options</b> Options: <input type="radio"/> yes <input checked="" type="radio"/> no Description of options:
<b>II.2.13) Information about European Union funds</b> The procurement is related to a project and/or programme financed by European Union funds <input type="radio"/> yes <input checked="" type="radio"/> no Identification of the project:
<b>II.2.14) Additional information:</b>

## SECTION IV: PROCEDURE

#### IV.1) Description

**IV.1.1) Type of procedure**

☒ Negotiated procedure without prior publication (in accordance with Article 32 of Directive 2014/24/EU)
 ☐ Negotiated procedure without prior call for competition (in accordance with Article 50 of Directive 2014/25/EU)
 ☐ Negotiated procedure without publication of a contract notice (in accordance with Article 28 of Directive 2009/81/EC)
 ☐ Award of a concession without prior publication of a concession notice (in accordance with Article 31(4) and (5) of Directive 2014/23/EU)
 ☐ Award of a contract without prior publication of a call for competition in the Official Journal of the European Union in the cases listed below (please complete point 2 of the Annex D)

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**IV.1.3) Information about framework agreement**

☐ The procurement involves the establishment of a framework agreement

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

The procurement is covered by the Government Procurement Agreement ☒ yes ☐ no

#### IV.2) Administrative information

**IV.2.1) Previous publication concerning this procedure**  
 Notice number in the OJ S: [ ] [ ] [ ] /S [ ] [ ] [ ] – [ ] [ ] [ ] [ ] [ ] [ ]

## SECTION V: AWARD OF CONTRACT/CONCESSION

**Contract No:[] Lot No:[] Title:[ADD Upgrade]**

**V.2) Award of contract/concession**

<b>V.2.1) Date of conclusion of the contract/concession award decision:</b> 20/11/2019			
<b>V.2.2) Information about tenders</b>			
The contract has been awarded to a group of economic operators <input type="radio"/> yes <input checked="" type="radio"/> no			
<b>V.2.3) Name and address of the contractor/concessionaire</b>			
Official name: Frequentis AG			National registration number:
Postal address: Innovationsstraße 1			
Town: Wien	NUTS code: AT13	Postal code: 1100	Country: Austria
E-mail:			Telephone:
Internet address:(URL)			Fax:
The contractor is an SME <input type="radio"/> yes <input checked="" type="radio"/> no			
<b>V.2.4) Information on value of the contract/lot/concession (excluding VAT)</b>			
Initial estimated total value of the contract/lot/concession: [ EUR]			
Total value of the contract/lot/concession: [605000,00]			
or			
Lowest offer: [] / Highest offer: [] taken into consideration			
Currency: EUR			
for framework agreements – total maximum value for this lot			
for contracts based on framework agreements, if required – value of contract(s) for this lot not included in previous contract award notices			
<b>V.2.5) Information about subcontracting</b>			
<input type="checkbox"/> The contract/lot/concession is likely to be subcontracted			
Value or proportion likely to be subcontracted to third parties			
Value excluding: [ ] Currency: [ ][ ][ ]			
Proportion: [ ] %			
Short description of the part of the contract to be subcontracted:			
<input type="checkbox"/> All or certain subcontracts will be awarded through a competitive procedure (see Title III of Directive 2009/81/EC)			
<input type="checkbox"/> A share of the contract will be subcontracted through a competitive procedure (see Title III of Directive 2009/81/EC)			
Minimum percentage: (%)			
Maximum percentage: (%)			
(The maximum percentage may not exceed 30 % of the value of the contract)			

## SECTION VI: COMPLEMENTARY INFORMATION

### VI.3) Additional information

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### VI.4) Procedures for review

<b>VI.4.1) Review body</b>		
Official name: Bundesverwaltungsgericht		
Postal address: Erdbergstraße 192 – 196		
Town: Wien	Postal code: 1030	Country: Austria
E-mail:	Telephone:	

Internet-Address:(URL)		Fax:
<b>VI.4.2) Body responsible for mediation procedures</b>		
Official name:		
Postal address:		
Town:	Postal code:	Country: Austria
E-mail:	Telephone:	
Internet-Address:(URL)	Fax:	
<b>VI.4.3) Review procedure</b>		
Precise information on deadline(s) for review procedures:		
<b>VI.4.4) Service from which information about the review procedure may be obtained</b>		
Official name:		
Postal address:		
Town:	Postal code:	Country: Austria
E-mail:	Telephone:	
Internet-Address:(URL)	Fax:	

**VI.5) Date of dispatch of this notice: (dd/mm/yyyy)25/11/2019**

#### **Annex D1 – General procurement**

**Justification for the award of the contract without prior publication of a call for competition in the Official Journal of the European Union**  
Directive 2014/24/EU

- ☒ **1. Justification for the choice of the negotiated procedure without prior publication of a call for competition in accordance with Article 32 of Directive 2014/24/EU**
  - ☐ No tenders or no suitable tenders/requests to participate in response to
    - ☐ **open procedure**
    - ☐ **restricted procedure**
  - ☐ The products involved are manufactured purely for the purpose of research, experiment, study or development under the conditions stated in the directive (for supplies only)
  - ☒ The works, supplies or services can be provided only by a particular economic operator for the following reason:
    - ☐ **absence of competition for technical reasons**
    - ☐ **procurement aiming at the creation or acquisition of a unique work of art or artistic performance**
    - ☒ **protection of exclusive rights, including intellectual property rights**
  - ☐ Extreme urgency brought about by events unforeseeable for the contracting authority and in accordance with the strict conditions stated in the directive
  - ☐ Additional deliveries by the original supplier ordered under the strict conditions stated in the directive
  - ☐ New works/services, constituting a repetition of existing works/services and ordered in accordance with the strict conditions stated in the directive
  - ☐ Service contract to be awarded to the winner or one of winners under the rules of a design contest
  - ☐ Procurement of supplies quoted and purchased on a commodity market

- ☐ Purchase of supplies or services on particularly advantageous terms:
  - ☒ from a supplier which is definitively winding up its business activities
  - ☒ from the liquidator in an insolvency procedure, an arrangement with creditors or a similar procedure under national laws and regulations
- ☒ **2. Other justification for the award of the contract without prior publication of a call for competition in the Official Journal of the European Union**
  - ☐ The procurement falls outside the scope of application of the directive

### 3.Explanation

Die erforderlichen betrieblichen Erweiterungen und Upgrades an den bestehenden ADD Panels dürfen auf Grund der Urheberrechte an der Software ausschließlich vom ursprünglichen Hersteller und Lieferanten der Systeme Fa Frequentis vorgenommen werden. Die Durchführung eines Verhandlungsverfahrens ohne vorherige Bekanntmachung gem. § 37 (1) Z3 BVergG 2018 mit Fa. Frequentis ist daher zulässig.