

## PROCUREMENT DECISION

Date  
9 September 2021  
Doc. No.  
TRAFICOM/517097/05.00.29.00/2020  
Reference  
Invitation to tender 29 June 2021

### **PROCUREMENT DECISION OF THE FINNISH TRANSPORT AND COMMUNICATIONS AGENCY TRAFICOM**

#### **Operating of scheduled air services to Savonlinna / TENDER PROCEDURE**

##### **1. Object of the procurement and agreement period**

The object of the procurement is the operation of scheduled air services to Savonlinna in accordance with the public service obligation. The obligation is imposed on scheduled air services from Savonlinna to Helsinki from 4 October 2021 to 20 December 2024.

The agreement period starts on 4 October 2021 and ends on 20 December 2024.

##### **2. Estimated total value of the procurement**

Because the Purchased Services Agreement in question has a duration of several years, the state budget must contain the appropriations intended for buying the scheduled air services and, correspondingly, the Savonlinna City Council must approve the annual funding for the management of the air services.

If the state or the City of Savonlinna does not reserve the required appropriations, the air services shall cease without separate measures at the beginning of the following year and the operating compensation will no longer be paid.

##### **3. Tender procedure and invitation to tender**

The tender procedure used was the procedure in accordance with the Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community (hereinafter referred to as the *Air Services Regulation*). According to section 9, subsection 1, paragraph 15 of the Act on Public Procurement and Concession Contracts (1397/2016), the Act on Public Procurement and Concession Contracts shall not apply to the procedure. A notice

on the tender procedure was published in the national official journal on 29 June 2021 (<https://www.traficom.fi/en/news/call-tenders-launched-savonlinna-air-services>).

The deadline in the invitation to tender for submitting tenders ended on 30 August 2021 at 13:00 Finnish time (LT EE).

The tender opening events were held on 30 August 2021, 31 August 2021 and 1 September 2021. The representative of Savonlinna who took part in the events was Jarmo Häkkinen.

#### 4. Documents examined in the tender procedure

Seven (7) tenders were received by the deadline:

OBJECT Savonlinna – Helsinki

Amapola Flyg AB, 26 August 2021 at 19:05

Nordic Aviation Group AS dba Nordica, 27 August 2021 at 16:30–17:24;  
30 August 2021 at 10:06, a total of three separate e-mails

JSC Aviation Company "Transaviabaltika", 29 August 2021 at 7:39–7:47,  
three separate e-mails

BASe Airlines Ltd, 29 August 2021 at 12:08

DAT A/S 29 August 2021 at 14:00

Maavoima Oy, 30 August 2021 at 11:21

NyxAir OÜ 30 August 2021 at 12:25.

#### 5. Assessment of the suitability of the tenderers and the compliance of the tenders with the invitation to tender

The conditions for the suitability of the tenderers were specified in section three of the invitation to tender. The tenderers had to submit the forms 3, 4, 5 and 6 attached to the invitation to tender along with their tender (net cost calculation, background information table, tender template and the selection criteria for the tender procedure). In addition to these, the tenderers had to attach a valid operating licence granted by a competent licensing authority of an EU member state according to Article 3 of the Air Services Regulation, and an air operator certificate according to Article 6. They also had to present a description of the aircraft used in the operations, an account of at least two years of experience in scheduled air services for passengers in the EU during 2015–2020; the Articles of Association and financial statements for the past three financial years, a statement from the tax authorities on outstanding taxes of the tenderer, and a statement from the relevant insurance company indicating that employee accident insurance premiums and pension contributions for the tenderer are fully paid up.

Moreover, they had to present a report about the interline agreement (section 3.7 of the invitation to tender). A commitment to the schedules presented as well as the ticket pricing was required in the tender.

In connection with the suitability assessment, several supplements to the documentation were requested.

Amapola Flyg AB (hereinafter: Amapola) was asked to provide a more recent statement on outstanding taxes as well as an insurance certificate, which were received and found appropriate.

Nordic Aviation Group AS dba Nordica (hereinafter: Nordica) was asked to provide the information on the financial statements in the language mentioned in the invitation to tender, and this supplement was received and found appropriate.

DAT A/S was asked to provide a more recent statement on outstanding taxes, which was received and found appropriate.

Maavoima OY was asked to provide the registration of the aircraft provided by A/S "Raf-Avia", which was received.

NyxAir OÜ (hereinafter: NyxAir) was asked to provide the information on the financial statements in the language mentioned in the invitation to tender, a more recent statement on outstanding taxes and a clarification regarding the ticket price, and these supplements were received and found appropriate.

The examination showed that one of the tenderers did not meet the requirements set in the tendering process. The Buyer has made a separate decision on the issue. The other tenders were found to meet the requirements mentioned above. After the assessment of the suitability of the tenderers and the compliance of the tenders with the invitation to tender, the decision was made to accept the following tenderers for the comparison of tenders:

Amapola Flyg AB  
 Nordic Aviation Group AS dba Nordica  
 JSC Aviation Company "Transaviabaltika"  
 BAsE Airlines Ltd  
 DAT A/S  
 NyxAir OÜ

**6. Tender comparison method and a summary of the comparison**

The selection criterion for the tendering process is the tender price of a rotation (a round-trip flight) multiplied by the number of rotations. The comparison criteria are described in section 4 of the invitation to tender. Price comparison:

<b>TENDERER</b>	<b>WHOLE AGREEMENT PERIOD, VAT 10%</b>	<b>ROTATION, VAT 10%</b>
Amapola Flyg AB	€9,529,954	€7,876
Nordic Aviation Group AS dba Nordica	€8,978,778	€7,031
JSC Aviation Company "Transaviabaltika"	€5,711,215	€4,476
BAsE Airlines Ltd	€6,535,583	€5,122
DAT A/S	€12,621,585	€9,892
NyxAir OÜ	€7,402,431	€5,797

## **7. Decision**

The following company has been chosen as the operator of scheduled air services to Savonlinna and invited to agreement negotiations:

JSC Aviation Company "Transaviabaltika"

No contractual relationship with the selected service provider is established yet based on this decision; it will only be established with a separate decision.

The examination showed that Maavoima OY did not meet the requirements set in the tendering process.

## **8. Applicable sections of law**

Air Services Regulation 1008/2008, Articles 16 and 17

## **9. Appeals**

A party not satisfied with this decision has leave to appeal the decision in accordance with the instructions for appeal.

Jarkko Saarimäki  
Deputy Director-General

Pipsa Eklund  
Director

For the information of

City of Savonlinna  
Ministry of Transport and Communications

## **ATTACHMENTS**

Attachment 1: Instructions for appeal

## How to appeal against a decision

### Appellate authority

If you are unhappy with the decision you received you may appeal to the Administrative Court of Helsinki. You may submit it by mail, electronic means or messenger.

### Time limit

The appeal shall be lodged in good time in order to arrive at the Administrative Court's registry before the end of office hours on the last day of the appeal period. It is always the responsibility of the appellant to lodge the appeal in due time.

The appeal shall be lodged within 30 days of notice of the decision, the day of notice excluded. If the final day is a public holiday, Saturday, Sunday, Independence Day, 1 May, Christmas Eve or Midsummer's Eve, the time limit is extended to the next working day.

The day of notice is calculated as follows:

- If the decision has been mailed as an ordinary letter, the service of the decision is considered effected within seven days from the posting date, unless otherwise proven.
- If the decision has been sent by mail in return for an acknowledgement of receipt, the date of notice is shown in the receipt. The acknowledgement of receipt shall be enclosed with the appeal documents.
- If the decision has been sent as a standard electronic message, the service is considered effected, unless otherwise proven, on the third day after the message has been sent.
- If the decision has been sent as a verifiable electronic message, the service is considered effected once it has been retrieved from the server designated by the Finnish Transport and Communications Agency.
- If the decision has been sent by email under section 12 of the Act on Electronic Communication Services (917/2014), the service is considered effected once you have sent a confirmation email to the Finnish Transport and Communications Agency that the message has been read. If, according to law, the document does not have to be served verifiably, service is considered effected on the third day after the message has been sent, unless otherwise proven.
- If the decision has been sent as a general notification, service is considered effected on the seventh day after the publication of the notification in the Official Gazette.
- If the decision has been sent using substitute service, service is considered effected on the third day after the day indicated in the acknowledgment of receipt.

### Form and content of the appeal

The appeal shall be lodged in writing. The appeal document, which shall be addressed to the appellate authority, shall indicate:

- your name and domicile, and your contact address and telephone number;
- the decision challenged;
- the parts of the decision that are challenged and the amendments demanded to it;
- the grounds on which the challenge is based.

You may write the appeal yourself or ask your legal representative to do so on your behalf. You or your legal representative shall sign the document. If your legal representative exercises your right of action, his/her name and domicile shall also be indicated on the appeal document.

Pursuant to section 9 in the Act on Electronic Services and Communication in the Public Sector (13/2003), the written form required in the lodging of a matter is met by an electronic document delivered to the authorities. An appeal submitted by electronic means need not be supplemented by a signature, if the appeal contains details on the sender and the authenticity and integrity of the document is not in doubt. Provisions on electronic signatures are given in EU Regulation (EU) No 910/2014 on electronic identification and trust services.

#### Appendices required

The following shall be appended to the appeal document:

- the decision challenged, in the original or as a copy;
- a certificate on the date of notice of the decision or other evidence on the date when the appeal period began to run;
- the documents on which you rely in support of your demand;
- your legal representative's power of attorney, unless he/she is a lawyer, a public legal aid attorney or a licensed attorney.

#### Contact details of the Administrative Court of Helsinki

Visiting/postal address: Radanrakentajantie 5, 00520 Helsinki

Telephone: +358 29 564 2000 (switchboard), +358 29 564 2069 (registry)

Fax: +358 29 564 2079

Email: Helsinki.hao@oikeus.fi

Fees charged by the Administrative Court are laid down in the Act on Court Fees (1455/2015). The Administrative Court will provide more detailed information on the fees charged.

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#### APPEAL AGAINST THE FEE LEVIED FOR THE DECISION

If you find that an error has occurred when levying the fee for the decision, you may submit a claim for a revised decision to the Agency within six months of the levying of the fee. In making the claim the instructions above should be followed, as applicable.