

Contract for flexible development services

A Guide for preparing and using the contract standard



DEN NORSKE DATAFORENING
(THE NORWEGIAN COMPUTER SOCIETY - NCS)

Version no. : 0.9
Latest update : March 23, 2018

TABLE OF CONTENTS

1	INTRODUCTION	FEIL! BOKMERKE ER IKKE DEFINERT.
1.1	BACKGROUND.....	FEIL! BOKMERKE ER IKKE DEFINERT.
1.2	PURPOSE OF THE CONTRACT	FEIL! BOKMERKE ER IKKE DEFINERT.
1.3	ROLE OF THE NORWEGIAN COMPUTER SOCIETY	FEIL! BOKMERKE ER IKKE DEFINERT.
1.4	PRECONDITIONS FOR SELECTING THIS CONTRACT	FEIL! BOKMERKE ER IKKE DEFINERT.
2	THE CONTRACT'S STRUCTURE AND CONTENT.....	FEIL! BOKMERKE ER IKKE DEFINERT.
2.1	PAGE LAYOUT	FEIL! BOKMERKE ER IKKE DEFINERT.
3	THE CONTRACT'S PROCESSES AND IMPLEMENTATION MODEL	FEIL! BOKMERKE ER IKKE DEFINERT.
3.1	MAIN PROCESSES	FEIL! BOKMERKE ER IKKE DEFINERT.
3.2	STARTING UP ACTIVITIES AND TRANSITION TO DELIVERIES	FEIL! BOKMERKE ER IKKE DEFINERT.
3.3	CLOSING ACTIVITIES.....	FEIL! BOKMERKE ER IKKE DEFINERT.
4	PROCUREMENT PROCESS AND ESTABLISHMENT OF CONTRACT.....	FEIL! BOKMERKE ER IKKE DEFINERT.
4.1	CONDITIONS FOR ESTABLISHMENT OF CONTRACT.....	FEIL! BOKMERKE ER IKKE DEFINERT.
4.2	COMPETITION BASIS AND REQUIREMENTS TO THE DESIGN OF OFFERS .	FEIL! BOKMERKE ER IKKE DEFINERT.
4.3	THE SUPPLIER'S DESIGN OF OFFERS IN THE CONTRACT	FEIL! BOKMERKE ER IKKE DEFINERT.
4.4	BASIS FOR EVALUATION OF OFFERS	FEIL! BOKMERKE ER IKKE DEFINERT.
5	THE SUPPLIER'S RESULT LIABILITY ..	FEIL! BOKMERKE ER IKKE DEFINERT.
5.1	ADDITION IN PART II FOR MODIFICATION OF THE SUPPLIER'S RESULT LIABILITY	FEIL! BOKMERKE ER IKKE DEFINERT.
5.2	ADDITION IN PART III FOR MODIFICATION OF THE SUPPLIER'S RESULT LIABILITY	FEIL! BOKMERKE ER IKKE DEFINERT.
6	USE OF THE CONTRACT STANDARD FOR PARALLEL FRAMEWORK AGREEMENTS	FEIL! BOKMERKE ER IKKE DEFINERT.

1. Introduction

1.1. Background

Agile implementation model has become increasingly dominant in system development projects, both in the private and public sectors. NCS'S contract standards for agile system development (PS2000 Agile) and PS2000 SOL (Standard Contract for Order-Based Agile Software Delivery) are both designed for the agile development of system solutions in close collaboration between customer and supplier. In these contract standards there is a split risk between the parties for parts of the work and the contracts focus on the parties' responsibilities at the various stages of the implementation model. This means that the parties' resources do not work in integrated teams, and this creates some limitations in the degree of agility in the implementation model. Also, these contract standards fail to facilitate customer involvement in system development in the development teams.

In order to obtain an even higher degree of agility in the implementation as well as a fully integrated cooperation between the parties, the risk cannot be distributed among the parties at the various stages of the work. The focus must rather be on the cooperation between the parties to staff, manage and continuously improve the development team, and thus the customer must take the responsibility for the result upon himself.

With an increasing focus on frequent production setting and close links between development and management (DevOps), teams should, as far as possible, be able to work autonomously and independently. This imposes relatively high requirements to development teams' maturity in within process/method, effective tool support, good communication and close collaboration within the development team.

Time-based assistance agreements or framework agreements are often used to hire consultants for agile development where the customer takes responsibility for the result. However, such contracts do not secure that the customer gets hold of the right resources with the desired expertise, and usually do not include support requirements from the supplier for the establishment and continuous improvement along the way.

The flexible development contract is an alternative to assistance agreements or framework agreements where the customer takes the responsibility for the result. The standard is characterized by the following:

- the supplier is obliged to deliver agreed capacity and resources with agreed expertise to the customer's development team and the customer is obliged to pay for the agreed capacity,
- the implementation model is based on flexible principles with predefined main processes and services; this includes focus on frequent production settlings and close links with development of management (so-called DevOps),
- the parties have an agreement to cooperate through regular meetings and reporting and
- the supplier assists the customer in following up the contract to ensure
 - efficient realization and management of system solutions
 - continuous improvement of the development team's processes, tool support and expertise.

In order to understand and interpret particular words and concepts used in the contract standard, a definition catalog is included in the general contractual terms.

1.2 Purpose of the contract

This document serves as a guideline in the establishment and use of this contract standard for flexible development services. The contract standard is an independent and complete agreement which includes:

- start-up activities for the contract,
- the entire life cycle for development and management of system solutions and
- closing activities for the contract

The contract regulates the parties' overall obligations and rights during the contract period, including the supplier's commitment to a given capacity and staffing. An agreement on the use of resources from the supplier to staff the customer's development team during the contract period is made through orders.

The parties may agree that a supplier has full or partial responsibility for technical infrastructure and development tools for the work done by the development teams.

The contract assumes that the client makes separate agreements with third parties who provide standard software and/or cloud services if these are to be included in the system solutions to be implemented and manufactured. The customer should be able to replace the development supplier without losing access to standard products and/or cloud services that are integrated in the system solution.

The contract also assumes that the customer is responsible for the result. In certain situations, it may be beneficial for the customer that the supplier is responsible for realization and management within predefined orders. The guideline describes how the standard can be expanded to include such responsibility.

The contract is also intended for establishing a contract with a supplier. However, it is easy to change the contract to become a framework agreement with two (or possibly more) suppliers, and a description of this is also included in this guideline. The number of suppliers must however be limited to two, since a relatively close contractual relationship between customer and supplier is preassumed.

1.3 The role of NCS

The NCS Expert Group for IT Contracts is responsible both for this contract and for further development and management of the PS2000 contract standards as well as the other related contractual standards.

The preparation of this contract standard took place in 2017, and the first version was completed in December 2017. The work was carried out by a work group headed by PROMIS AS.

The work group was established by the Board of the NCS IT contracts group, with an approximately equal representation of customers, suppliers and consultants:

- PROMIS AS, by Jørgen Petersen (manager) and Odd Gunnar Alterhaug
- Simonsen Vogt Wiig Law, by Trine Vabog
- The Labor and Welfare Organization (NAV), by Roar Andersen
- Bekk Consulting AS, by Frithjof Frederiksen
- Capgemini Norge AS, by Haakon Brandtzæg
- Computas AS, by Lars Frode Haugen
- Ministry of Security and Service Organization, by Jan Raae
- Directorate for Administration and ICT (Difi), by Mari Benkow
- Sopra Steria, by Nils Petter Kristiansen and Benedicte Bjorbæk
- The Norwegian Road Administration, by Svein Hauge
- Timebox AS, by Kathrine Breistøl

More information about NCS and the workgroup can be obtained from NCS (www.dataforeningen.no) or PROMIS AS (www.promis.no).

1.4 Prerequisites for selecting this contract

The contract assumes that the customer has experience and maturity with agile system development, and that he has resources to cover some of the roles within the development team. It is a prerequisite that the customer

- has resources with good insight into the actual business processes and experience from the product owner role, with adequate decision making authority,
- has a sufficient number of resources on his own to cover prudential roles, so that the customer basically can take responsibility for the work in the development teams,
- has experience and maturity with agile system development; experience with owner management of agile initiatives/projects is an advantage,
- establishes separate contracts with suppliers of any standard products or cloud services that are to be configured and integrated into the system solutions.

2 Contract structure and content

2.1 Main headings

Content:

Part I Contract Document

Part II General Contract Provisions

Part III Attachments

The contract document consists of a front page with key information about the customer, the supplier and the contract signed, and it stands out as a separate part for the parties to choose layout and content. As a minimum, all parts of the contract must be referenced, and the ranking order must be described in addition to specifying the duration of the contract. Separate agreements made by the customer regarding standard software and/or cloud services which are mentioned in the contract must be listed here.

The contract document is prepared when the parties have reached agreement on the contractual terms and conditions. The general contractual terms should be applicable with few or no changes. All specific terms of the contract are therefore regulated in the attachments. Any changes to the general contractual terms must be described clearly in the contract document.

The general contractual terms contain a description of how the supplier's resources and services will be delivered through the establishment of orders based on requirements and conditions in the following areas:

- the duties of the parties involved,
- services and processes within the implementation model, and how orders are established,
- Economic conditions
- legal provisions, including security, confidentiality, rights, breaches, cancellations and changes

The contract is designed with "semi-finished" attachments. This is intended to simplify the preparation of the attachments and facilitate the regulation of all matters stipulated by the general contractual terms to be further regulated in the attachments. To simplify the agreement process even further, the attachments contain proposals for a detailed regulation of the services, and state which services and obligations should be regulated. Please note that the proposals are not meant to be guidelines from NCS.

The suggested text in the attachment must, however, be completed and thoroughly reviewed in order to be used to regulate specific contractual relationships. Primarily, specific conditions are to be entered in predefined tables. Where tables are not appropriate, the areas that need to be filled in are marked with <italics and braces> and text suggestions. Note that the attachment text in some areas primarily serves as a cross reference of the general contract terms and as an example (in italics) of suggested content, not as a standard.

The attachments contain:

1. A general description of the current system area
2. A description on how orders are established to agree on which resources the supplier will include in the development teams,
an overall description of main processes and services for the execution of orders,
and the implementation of the start-up and termination activities of the contract
3. The supplier's capacity, resources and competence requirements to the resources
4. Administrative regulations, contacts, regular meetings and reporting
5. Prices and financial remuneration for orders
6. Checklist for designing orders
7. Log for orders
8. An overview of technical infrastructure and development tools, testing and production set-up to be maintained by the supplier.

3 The contract's processes and implementation model

3.1 Main Processes

The contract is tailored for an implementation model based on agile principles. The implementation model consists of three main processes that are largely conducted in parallel, with focus on short lead time for tasks to be performed by the development team, frequent production settlements and close links between development operations (DevOps). The main processes are only described in a general way, as they must be adapted to the tasks of each development team and shall be subject to continuous improvement.

Product queuing process

- ⇒ Establishment of the product queue at a superior level
- ⇒ Elaboration of content in prioritized sections of the product queue

Realization Processes

- ⇒ Detailed design, development, testing and production setting of the product queue; this may include the development of system solutions as well as system integration and configuration of standard products and/or cloud services that will be part of the system solution and that are regulated by separate agreements
- ⇒ Performed in iterations or as a continuous process

Management Process

- ⇒ Service period is defined to ensure availability and quality of the software in production
- ⇒ Services include error correction, monitoring, third-party support, training and preventive maintenance

3.2 Start-up activities and transition to deliveries

Upon the entering into a contract, an order must also be signed for the supplier's participation in the process of establishing the partners' cooperation in a fully integrated development team. The customer is responsible for the start-up project, but the supplier can be responsible for subtasks. The description of the start-up project usually includes:

- description of activity and deliveries to establish the cooperation between the parties,
- challenges and risks,
- responsibilities,
- milestones and progress plan,
- Prerequisites for termination of startup activities and
- necessary clarifications related to the use of method and guidelines, including an initial definition of the word "finished".

The work with the first deliveries will often take place in parallel with parts of the start-up project. It is important that the prerequisites for cooperation and communication between the parties, as well as technical assumptions, are established at an adequate level before the ordinary work on deliveries can begin. With good planning, however, the startup of regular deliveries can provide good synergy with the start-up project.

3.3 Closing Activities

Upon termination of the contract, the supplier, according to an order, is obliged to participate in a termination project for the transfer of expertise and experience to the customer, possibly to a new supplier. The termination project may last for a period of up to 3 months after the end of the contract period.

The customer or a third party designated by the customer is responsible for the project and the supplier is obliged to provide relevant and competent resources.

4 Procurement process and establishment of contract

4.1 Prerequisites for the establishment of a contract

Important prerequisites for the customer's experience and staffing to perform a service as described in the Flexible Development Contract are defined in section 1.4.

Based on the system area that will be covered by the contract, the client must plan the total amount of resource input for the development and management of system solutions, and which part will be covered by internal resources and what should be established through one or more flexible development contracts. If the scope of the procurement is large and the customer wants more than one supplier to ensure access to resources, the system area can be divided into several sub-areas with separate contracts. Alternately more contracts for the system area are defined by establishing parallel framework agreements as described in point 6.

It is an advantage for the procurement if the customer can define one or more orders that will be established simultaneously, since this provides a better basis for awarding a contract. To have some flexibility in such an order, parts of such an initial order can be defined as an option.

If, during parts of the contract period, it turns out to be a challenge for the customer to have sufficient staffing in all development teams to be able to take responsibility for the results themselves, the customer must consider including requirements for the supplier to take responsibility for defined orders. This is described in point 0.

4.2 Competition basis and requirements for the design of offers

When submitting a bid request, the general contractual provisions and attachments, as far as they can be filled in by the customer, should be included as a basis for potential suppliers' offers. In public

procurements the Public Procurement Act and its regulations must be taken into consideration. Regardless, contractual provisions and attachments that are filled out as completely as possible, help compare the suppliers' offers more effectively, and to reveal any uncertainties, and they become less time-consuming to complete as a final contract between the parties.

The following points in the attachments should be prepared by the customer in the tender documents as far as it is possible:

- In Attachment no. 1 the customer will define the current system area. It normally includes a general description of the customer's needs and purposes with the system area, as well as of architecture and the desired solution concept for the development of system solutions
- In Attachment no. 2 the customer can adapt the requirements to the start-up project. The customer will define parameters in the main processes and make adjustments in the overall description of the main processes. For the management process, there are several services that require adjustments and additions from the customer.
- In Attachment no. 3 the customer will define requirements to the supplier's capacity for orders and capacity change thresholds, and the customer will define the number of years of experience that will be used as basis for the various competence categories. Critical resources should be specified, and normally the proportion of resources categorized as critical should be around 25 percent of the agreed capacity.
- The customer will also define competence requirements to the supplier's resources within the relevant system area and for all relevant roles within the development team. Competence requirements should also contain relevant requirements to the supplier's representatives (the supplier's authorized person and the supplier's operational officer).
 - In Attachment no. 4 the customer's contacts must be specified. Furthermore, reporting and meeting requirements can be adapted to customer requirements.
 - In Attachment no. 5 the customer will define commercial terms for any permanent extension of the service period and preparedness. The customer will define prerequisites for annual price adjustments as well as limits on breach provisions. The customer must determine the size of sanctions if there is a negative deviation of a percentage, which must also be determined by the customer, linked to the agreed capacity. Furthermore, the customer must decide on the size of sanctions if there are insufficient resources that cover the competence requirements.
 - Attachment no. 6 is a template/checklist for orders. The customer can make adjustments to the checklist if necessary.
 - Attachment no. 7 is an empty log for orders.
 - In Attachment no. 8 the customer will define requirements, if any, to technical infrastructure and development tools, testing and production set-up to be maintained by the supplier. Furthermore, any requirements from the customer to the approval of free software shall be disclosed here.

In addition to the attachments, the customer usually prepares a document describing the terms of the competition. Here you define limits for the expected scope and capacity of the contract period as well as the plan and the conditions for the completion of the competition.

4.3 Supplier's completion of tender text in contract

It is recommended that the customer, through the competition document, requires that the supplier as part of the offer prepare a completed version of the contract's documents. As a minimum, the following points in the attachments should then be completed:

- In Appendix 2, activities, plans, risks and other assumptions for the start of the contract period shall be described. Suppliers shall also elaborate activities, plans and responsibilities upon termination of the contract period.

- In Appendix 3, the supplier's resources as well as other defined parameters for each resource should be identified, including which resources are critical. The supplier must also identify any subcontractors.
- In Appendix 4, the supplier's representatives must be defined.
- In Annex 5, hourly rates must be defined.
- In Appendix 8, the supplier shall define the company's terms and economic conditions for possible liability.
- In addition, the first assistance agreement with the supplier's start-up activities must be added to the offer before it is completed.
Furthermore, an expanded basis is required to evaluate the supplier in relation to what will appear from the annexes and the first assistance agreement. This is discussed in the following paragraph.

4.4 Basis for evaluation of offers

Evaluation of offers in a competition for a flexible development contract will mainly be based on the core areas of competence in offered resources, such as start-up projects, hourly rates and contracts. The actual evaluation will be based on suppliers' response to the contract. This must be defined already in the award criteria that are included in the tender documents.

The following areas can be used as a basis for evaluating award criteria and thus as requirements in the supplier's response:

- Description of competence and experience for the supplier's offered resources in relation to the client's competence requirements. This may be resources in initial orders that the customer specifies for resources to be included in orders that are established at the same time as signing the contract, or resources according to the customer's requirements for example CVs for resources that the supplier can use in future orders.
- Description of how the supplier will handle changes in the customer's capacity requirement during the contract period.
- Description of how the supplier will ensure the stability of the customer's crew and how the supplier will ensure that these resources get the necessary skills development during the contract period
- Description of how the supplier will cooperate with the customer on a higher management as well as an operational management level so that the supplier contributes to the development of the customer as well as continuously improving the quality of services from the development teams
- Description of the supplier's understanding and elaboration of the main processes described in the contract.
- Description of how the vendor will handle orders where the vendor has responsibility for profit.
- Description of start-up activities, ref. Annex 2.
- Prices given in Appendix 5 and in the orders established at the same time as the contract.
- Supplier's descriptions and any comments and reservations regarding other items in the annexes.

For the evaluation of award criteria for costs, a simulation model should be used to calculate costs for the supplier's resources and other activities based on the duration of the contract, including any option period.

5 Performance responsibility for the supplier

If the customer wishes to be able to establish orders in which the supplier is responsible for economic results, the following text may be included in the specified parts and points of the contract.

5.1 Supplement in Part II for the regulation of liability for the Supplier

Adding a last paragraph to 1.1 "General"

The parties may agree that the Supplier has responsibility for economic results and this must be explicitly agreed upon in an Order.

Adding a definition in section 1.2 "Definitions"

Performance responsibility	Result responsibility means that the Supplier has a defined and overall responsibility for implementation and the outcome of both the Realization Process and the Management Process.
----------------------------	---

Adds a last paragraph in section 2.1 "Responsibility"
In certain Orders, it may be explicitly agreed that the Supplier has a Result Responsibility for implementation and the result of both the Realization Process and the Management Process. Such a result responsibility will mean that the Supplier mainly makes use of his own own resources. Result responsibility assumes that specific and defined objectives for the Realization Process and Management Process are documented in the Order. In addition, Result Responsibility can be linked to the implementation of improvement measures for the Main Processes.

5.2 Supplement to Part III for the regulation of liability for the Supplier

Adding Chapter 1.6 "Performance Responsibility for Supplier"
In an Order, it is explicitly agreed that the Supplier has a Result Responsibility for both the Realization Process and the Management Process during the Agreement Period for the Order.

If the supplier has such Result Responsibility, the composition of the Development Team shall be clarified in cooperation between the parties. Normally, the supplier will mainly use his own resources within the current order, and he must take responsibility to provide all roles to ensure a comprehensive team.

Performance responsibility can be linked to defined objectives within the following measurements:

Passage time for the Realization Process: The time is takes from a User Story has begun until it is put into production and thereby available to end users. The objective can be linked to

- average passage time for tasks in the Development Team per <time period>; or average passage time accumulated during the period of the Order
- Trend of passage Time (For example, at defined milestones during the term of the contract, the passage time will be reduced according to defined goals)

Frequency of production settlements

Quality of the following services in the management process

- Number of critical errors in User stories that were put into production during the period of the order or per <time period>
- The total number of errors in User stories that were put into production during the period of the order or per <time period>
- The level of technical debt according to a definition of technical debt upon further agreement between the parties; or that the goal is linked to the trend for the level of technical debt or to a defined threshold.

Performance responsibility can also be linked to agreed objectives that the Supplier will realize for improvement measures for the main processes. Specific milestones should be set, with dates and a budget of hourly spending until each objective has been achieved. The objectives should be approved by the customer and the hourly spending until the milestone is reached should be recorded so that potential or recorded deviations from the budget can be resolved between the parties according to agreed incentive mechanisms.

In Order of Performance Responsibility for the Supplier, sanction and / or incentive mechanisms can be agreed as set out in Appendix 5.

Adding a Chapter 4.4.2 "Reporting where the Provider has Performance Responsibility"

For Cancellations where the Contractor has Result Responsibility, the following must be reported:

- Cost and Progress Efficiency for each Development Team after each Iteration or agreed period
- Average lead time for the realization process; for each quarter and accumulated during the period of the Order
- Number of critical errors and serious errors in User stories that are output during the review period; monthly and accumulated during the period of the Order
- The level of technical debt; for each month and trend in the period of the Order
- Status of other preventive maintenance activities (such as status of performance, stability, and resource usage when reviewing application logs and status of quality check check in relation to the definition of completion)

Adding Chapter 5.4 «Compensation and incentive agreements concerning Cancellation where the Provider has profit responsibility»

The compensation for the Supplier's work in the Order should be based on hourly spending and predetermined hourly rates, ref. Appendix 5.

When the supplier has a Result Liability, as described in Appendix 1, the Provider may charge a one-time fee for the Order limited to <> percent addition to the Order's Total compensation. The addition is linked to the achievement of a set of goals defined in the Order. Such objectives may include:

- Flow time for the realization process (per quarter or accumulated in the period of the Order)
- The number of critical errors in User stories that are set in production during the period of the Order
- Number of serious errors in User stores that are set in production during the period of the Order
- The level of technical debt according to a definition of technical debt agreed on between the parties; or that the objective is linked to the trend for the level of technical debt
- Achievement of predetermined objectives regarding improvement measures for the main processes

Adding Chapter 5.8.2 «Sanctions applicable to orders where the Supplier has profit responsibility»

When the Supplier has profit responsibility as described in Appendix 1, the Customer may calculate a one-time discount for the Order limited to <> percent discount of the Order's Total Remuneration. The one-time fine is linked to the failure to achieve one or more of the objectives defined in the Order.

Such objectives may be:

- Passing time for the realization process (per quarter or accumulated in the period of the Order)
- The number of critical errors in User stories that are set in production during the period of the Order

- Number of serious errors in User histories that are output during the period of the Order
- The level of technical debt according to a definition of technical debt by agreement between the parties; Possibly that the objective is linked to the trend for the level of technical debt
- Failure to achieve agreed targets for improvement measures for the main processes

Adds the following checklist in Appendix 6

<Below is a checklist used where the Supplier has Responsibility for Result within the Order.>

Chapter 1 Objectives and and Purposes

<Description of the objectives of the Order. The objectives that have laid the foundation for defining responsibility for the Supplier must be defined very clearly>

Chapter 2 Period for the Order

<Milestones for startup and termination of Order. Any special milestones for Deliveries within the period of the Order must also be specified.

Milestone (s) in which the Supplier may be sanctioned with daily fines or may become subject to a one time compensation must be clearly defined.>

Chapter 3 Administrative conditions

<Identification of the Customer Product Owner(s) who can approve and prioritize Product queue, and other responsible persons representing the Customer and Supplier for the Order.>

Chapter 4 Resources

<A list of Supplier Resources, Roles, Allocation for each of the Supplier's resources and total hourly spending for the Order.>

Chapter 5 Budget

<Budget for the Order.>

Chapter 6 Sanctions and incentives

<Any sanctions and / or incentives with relevant prerequisites that are applicable to the Order, ref. Appendix 1.

a) Identification of objectives that provide the basis for payment of a one time compensation limited to <> percent addition to the Order's total remuneration.

b) Identification of targets that provide a basis for calculating a one time compensation limited to <> percent addition to the Order's Total Remuneration>

Chapter 7 Other Prerequisites

<Customer and Supplier's other prerequisites for completion of the Order.>

Chapter 8 Change Log

Chapter 9 Signatures

6. Use of the contract standard for parallel framework agreements

NB! This chapter has not been completed.

By using the contract standard to establish parallel framework agreements with multiple suppliers, Part III, Section 3.2, "Change of Capacity" is replaced by the following text: Customer may require increased contractual Capacity Up to <> full-time equivalents with 30 calendar days notice, but limited to a maximum capacity of Supplier at <> full-time equivalents.

Increase of agreed Capacity is made through the implementation of new competitions between the suppliers with which the Customer has parallel flexible development contracts. The competition will be conducted as follows:

1. For each Order that is to be entered into, the Customer shall in writing request a bid from the suppliers. Request for offers shall contain further requirements for services, capacity, duration and any options for duration and capacity. The request should define whether the competition applies either
 - an overall assessment of the specific resources offered by each of the suppliers (one vendor receives the entire order), or
 - if the Customer will consider individual resources within the specific resources offered collectively from the suppliers (the customer chooses individual resources across the offers).
2. The customer determines a sufficient time limit for submission of tenders for each Order. An adequate time limit is determined on the basis of complexity and the time required to prepare offers.
3. Tenders must be submitted in writing and the contents shall be kept confidential until the expiry of the stipulated deadline.

The Customer Assigns Order to the Supplier who has provided the best offer based on:

- Expected quality based on the expertise of the specific persons offered for the service, documented through attached CVs. The customer reserves the right to conduct interviews and reference checks.
- Prices and any reservations / deviations of economic significance to the Customer.

When awarding Order, please make sure

- Agreed Capacity is updated in section 3.7; The supplier is obliged to make available a Capacity with a number of full-time equivalents as set out in section 3.7.
- Resources will be updated in section 3.8; Training of critical and other resources is agreed between the parties and shall be included in the Order

Upon expiration of Order with an option period or cancellation of Order, agreed Capacity in section 3.7 and Resources in Section 3.8 shall be updated accordingly