

Summary of the Radio and Television Board's public procurement for the fifth terrestrial FM radio channel

The Radio and Television Board

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1. The tender documents

The fifth terrestrial FM radio channel procurement is based on the degree of attractiveness of each bid.

Participation in the procurement is in the form of a bid containing the information etc. outlined by these tender documents.

The tender documents describe how the Radio and Television Board will assess the bids received. Below is an explanation of the weighting of each individual evaluation criteria and its related sub-criteria.

2. Background

On 9 June 2009, a supplementary agreement to the media agreement for 2007-2010 was concluded, which concerned development of the radio market etc. One aspect of this supplementary agreement was that the commercial radio sector should have better framework conditions for the sake of competition and the possibility of a greater number of market stakeholders. It also states that the re-tendering of FM5 would take the form of a contest based on relative attractiveness, with the option of payment of a variable concession fee.

According to the media agreement for 2012-2014, it was decided that the FM band will be shut down at the end of 2019 if, by mid-2018, it is found that at least 50 per cent of radio listening is via digital platforms. It also states that a block exchange between existing licence owners of the two digital radio broadcasting DAB blocks 1 and 2 will be implemented, and that a transition from DAB to DAB + will be completed.

Pursuant to § 45 section 5 and § 48 of the Act on Radio and Television Broadcasting no. 255 of 20 March 2014, the Minister of Culture issued Executive Order No. 259 of 20 March 2014 on the Radio and Television Board's re-tendering of the fifth terrestrial FM radio channel (hereinafter referred to as "the executive order").

According to § 1 section 1 of the executive order, the Radio and Television Board will put FM5 out to tender, with bids to be assessed based on their attractiveness, as either a unified transmission option (National channel)

or two differentiated transmission options (Channel East and Channel West) for Zealand and Jutland/Funen respectively. The National Channel will have 192 CU at its disposal in a nationwide DAB block. Channel East and Channel West would each have 96 CU at their disposal in a nationwide DAB block. The licence grants the right and obligation to broadcast programming in digital form, in a nationwide DAB block.

§ 2 section 1 of the executive order establishes a requirement that 400 hours of public service news programmes must be broadcast annually, excluding any advertising and between 6 a.m. and midnight.

The licence may not be awarded to Danmarks Radio.

Broadcasting of programming on FM and DAB must commence on 20 November 2014.

3. Bidding procedure

Placement of a bid in the procurement is by submission of an application.

When bidding, the following application form must be used (Appendix 1): <https://ansogning.kc.kum.dk/xform/frontend/irs.aspx?alias=1787&groupid=16>

Certain documents must also be enclosed with the bid. Obligatory forms have been prepared for some of these. No changes may be made to the printed text. Forms can be downloaded from the Danish Agency for Culture's website: www.kulturstyrelsen.dk/medier/radio1/fm-5-nova-fm/udbud-af-fm-5/

By submitting a bid, the bidder accepts the procurement's terms and conditions.

It will be possible to ask questions about the tender documents until noon on Friday 25 April 2014. Answers will be published (along with the questions) on an ongoing basis and by 5 May 2014 at the latest on the Danish Agency for Culture's website.

Bids must reach the Radio and Television Board by noon on Tuesday 20 May 2014.

No later than upon submission of their bid, bidders must place an on-demand guarantee of DKK 1 million and provide a declaration of ownership.

In their bid, the bidder must include:

- An account of their financial status
- An account of programming services throughout the licence period, including how they will satisfy requirements for 400 hours of public service news programmes annually
- Presentation of their business plan covering the licence period
- An account of their ability to operate a radio or other media company.

The bidder may base their bid on the abilities of other entities.

The Radio and Television Board reserves the right to cancel the procurement at its own discretion if no suitable bids are received, cf. § 7 of the executive order. Before the expiry of the deadline for submission of bids, the Board may also make minor amendments to the licence terms specified in the tender documents. The Board may finally make amendments to the tender documents, including to the stated licence terms, if so instructed by the Minister of Culture. If the Board makes changes to the tender documents before expiry of the deadline for bids, the Board must rule on a potential extension of the deadline.

All communication concerning the procurement from the Radio and Television Board will generally only be published on the website of the Danish Agency for Culture: www.kulturstyrelsen.dk/medier/radio1/fm-5-nova-fm/udbud-af-fm-5/

After expiry of the deadline for the placing of a bid, any cancellation or change of date for the Board's decision or the like also be communicated to the bidders' contact representatives directly.

The procurement process, including questions and answers, bids and other documents and communications will normally be in Danish. Out of consideration for any interested parties in other countries, a summary of the tender documents has been translated into English.

4. Assessment

Upon receipt of bids, the Radio and Television Board will review whether they contain the required information, as stated in the tender documents. The Board will then contact bidders as soon as possible for possible clarification of the information provided. In this context it will not normally be possible to supplement the information provided. The Board may, however, within the framework of the principle of equal treatment also request additional information to clarify matters already described in the bid. The Board

may not in this context, however, ask questions or request additional information relating to the basic elements of the bid.

Bids not containing content such as the minimum information as required by the tender documents will be rejected by the Radio and Television Board.

Based on an evaluation of the bids, the Radio and Television Board will determine which applicant will be granted the licence. For the Board's evaluation of bids, the financial feasibility of the business plan will be weighted at 20 per cent. The market-related feasibility of the business plan will have a 40 per cent weighting. The bidder's ability to operate a radio or other media company has a cumulative weighting of 40 per cent, based on the following equally-weighted sub-criteria:

- The bidder's general ability to operate a radio or other media company.
- The bidder's knowledge or insight into the operation of broadcasting or other media company
- The bidder's knowledge or understanding of the media market.

5. Licence terms

Throughout the entire duration of the licence, the company that has been awarded the licence shall act in accordance with its business plan, unless the Radio and Television Board has previously approved changes in relation to this, cf. § 8 section 2 of the executive order.

It follows from the Act on Radio and Television Broadcasting § 11 section 6 that news must be broadcast nationwide on FM5. This is specified in the executive order, such that 400 hours of news programming must be broadcast annually, excluding any advertising and between 6 a.m. and midnight. By 1 May each year, the licence owner must submit a report to the Radio and Television Board on the fulfilment of public service news requirements. No other demands are made about programme content. However, as stated this must be exercised in accordance with the business plan. The licence owner shall additionally be included in the official industry-recognised radio measurements or otherwise perform measurements that are comparable with those, cf. § 2 section 9 of the executive order.

The licence owner has the option of networking partnerships with local radio stations but may not split its output geographically, i.e. a particular programme or advertisement must be broadcast simultaneously throughout the licence owner's entire broadcast area.

The licence owner may be required to send emergency messages according to the rules in the Act on Radio and Television Broadcasting but FM5 is not included in the current executive order on emergency communications.

The licence owner is obliged to broadcast programmes in the DAB format and to bear the costs of their distribution. Broadcasting must be in a nationwide DAB block and coverage must be maintained at the same level as today (almost 100 per cent). The licence owner must accept changes to the licence, in relation to broadcasting possibilities and signals, including DAB block changes incl. changes in operating conditions for the DAB block and possibly transition to DAB + , when political decisions are made in this regard.

Throughout the licence period or before the licence is returned or withdrawn, a variable revenue-based concession fee will be paid. For the National Channel, the fee is 5 percent of that proportion of the transmission opportunity's fee basis for that year that exceeds DKK 75 million up to DKK 100 million, 10 per cent of the fee basis from and including DKK 100 million up to DKK 200 million and finally 15 per cent of the fee basis from and including DKK 200 million. For the Channel East and Channel West, the fee is 5 percent of that proportion of the transmission opportunity's fee basis for that year that exceeds DKK 37.5 million up to DKK 50 million, 10 per cent for the fee basis from and including DKK 50 million up to DKK 100 million and finally 15 per cent of the fee basis from and including DKK 100 million.

By 1 May each year, the licence owner must submit an independent financial statement for the broadcasting opportunity to the Radio and Television Board, including a statement of the fee basis. If the licence is returned or withdrawn, the accounts and calculation of the fee basis must be submitted to the Radio and Television Board by the end of the fourth month after the return or withdrawal. The variable concession fee for the period until the return or withdrawal must be paid by the end of the fifth month after the return or withdrawal.

The licence owner must commence programme services in accordance with the licence, on both FM and DAB on 20 November 2014.

6. The Licence

The licence is issued for a period of 8 years, cf. § 8 section 1 of the executive order. The licence period is from 20 November 2014 to 19 November 2022.

The Danish Business Authority issues frequency licences upon request by the licence owner. An annual frequency fee must be paid to the Danish Business Authority.

The Radio and Television Board oversees compliance with the terms of the licence and the rules of the Act on Radio and Television Broadcasting and with regulations issued pursuant to the Act on Radio and Television Broadcasting.