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**The Radio and Television Board**

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## **The Radio and Television Board's tender for a digital public service radio channel**

The Minister for Culture has issued executive order no. 719 of the 9<sup>th</sup> of July 2019 on tender for a digital public service radio channel (the executive order). According to § 1, in the executive order the Radio and Television Board hereby puts out to tender a digital public service radio channel. The Radio and Television Board grants the program license following a beauty contest with a price element.

The detailed tender material can be downloaded from the [Danish Agency for Culture and Palaces' website](#).

The Radio and Television Board hereby calls for applications for the contest. Applications must be in the Board's possession no later than

**Friday, September 20<sup>th</sup>, 2019 at 12.00 noon.**

The Radio and Television Board expects to announce the winner of the contest no later than 22<sup>nd</sup> of October 2019, whereupon the Board shortly thereafter will issue a license to the winner.

The Radio and Television Board makes certain reservations as to a possible cancellation of the tender. The Board can cancel the tender before the deadline for submission of applications, and likewise the Board can cancel the tender after the deadline in case of no suitable applications are received, or in the case of any other factual reason.

According to the executive order's § 19, section 3, the Board can also make alterations to the stipulated conditions for the license, as described in the tender material, before the expiry of the deadline for submission of applications. Finally, reservations are made as to any mistakes in the tender material.

## **Summary**

The present section contains a summary of the detailed descriptions of the collective tender material. In case of any discrepancy between the summary and the executive order in the following sections, the executive order prevails.

## **Tender material**

A digital public service radio channel is put up for tender at a beauty contest with a price element.

Participation in the tender is based on the submission of an application, which must be prepared in accordance with the stated in the tender material and must contain the required documentation and information etc., including a banker's guarantee.

Section 6.2 in the tender material describes how the Radio and Television Board's assessment of the applications will take place. The section contains information about evaluation criteria and the mutual weighting of these, including information about the scale of points, which the Board will apply when assessing the application in relation to the individual evaluation criteria.

In the present section the content of the following sections will be summarized in brief, i.e. concerning background/basis for the tender, application procedure (including the information which must be contained in the applications), evaluation (i.e. the Radio and Television Board's assessment of the applications) as well as license conditions. For a full description of the application procedure and the requirements for the application, please refer to the specific sections in the tender documents.

## **Background**

According to the Supplementary Agreement from the 3<sup>rd</sup> of May 2019 to the media policy agreement 2019-2023 a digital public service radio channel with subsidies must be offered. With support from the Socialist People's Party, the Danish Social-Liberal Party, The Red-Green Alliance and The Alternative, the government has decided to put up a digital public service radio channel for tender.

Pursuant to § 45, stk. 5, in the Radio and Television Broadcast act the Minister for Culture has issued executive order no. 719 of the 9<sup>th</sup> of July 2019.

The Radio and Television Board offers permission to perform public service program activities in the form of a radio channel with subsidies.

License cannot be granted to DR, the fourth terrestrial FM radio channel or participants in a consortium behind this channel with an ownership of over 10 %.

The radio channel must be nationwide and distributed via DAB. Please note, that the license follows a duty to distribute the radio channel via the DAB transmission network. With the license there will not be any capacity put aside, which is why the licensee independently must ensure that the radio channel will be distributed in a nationwide DAB transmission network (now being DAB block 1 or DAB block 2).

It is possible to take user fees for the public service programs.

The license is valid from the date stated in the application for the start of the broadcasting and four years ahead.

#### **Information meeting and Q&A**

An information meeting will be held on Monday, August 19<sup>th</sup>, 2019 at 14.00-16.00, at The Agency for Culture and Palaces, H. C. Andersens Boulevard 2, 1563 Copenhagen V.

Registration for the meeting, including the number of participants shall be made to [rtv@slks.dk](mailto:rtv@slks.dk) no later than Thursday, August 15<sup>th</sup>, 2019 at 12.00 noon. In the subject field, please state "Registration for information meeting DAB channel".

The meeting will be in Danish.

During the period from publication of the tender material and up until Monday, August 26<sup>th</sup>, 2019 at 12.00 noon it will be possible to pose written questions about the tender material. The questions and answers will be available on [website of the Danish Agency for Culture and Palaces](#).

The questions will be published in anonymous form.

The Radio and Television Board expects to answer the questions no later than Monday, September 2<sup>nd</sup>, 2019.

Questions submitted after Monday, August 26<sup>th</sup>, 2019 at 12.00 noon will not be answered.

All questions must be submitted in writing to the Radio and Television Board v/Agency for Culture and Palaces at [rtv@slks.dk](mailto:rtv@slks.dk). Please state "Questions, tender DAB channel" in the subject field.

Please note, that it is not possible to submit questions directly to the Ministry of Culture or to the Danish Energy Agency.

### **Application procedure**

The application must be submitted through the electronic application form, which can be found on the [Danish Agency for Culture and Palaces' website](#). Appendix 1 encloses a printout of the application form in pdf format for the applicants' information. Section 5 in the tender material describes both the application procedure and the requirements for the form and content of the applications.

**The Radio and Television Board must receive applications no later than Friday, September 20<sup>th</sup>, 2019 at 12.00 noon.**

Section 5 describes the application procedure as well as the requirements concerning form and content of the applications.

Together with the application, applicants must produce a banker's guarantee of DKK 4 million. The guarantee must be issued by a bank or an insurance company whose long-term debt must have a rating from S & P Global of at least A or from Moody's Investors Service Limited of at least A2.

Once the program permission is granted, the bank guarantees will be released.

Among other things the applicants must:

- submit a program plan and account for and give an undertaking as to the applicant's future program activities etc.
- give an account of their financial circumstances and organizational conditions
- submit a plan for operation covering the license period

The applicant can base their activity on the capabilities of other units.

The Radio and Television Board is entitled before the expiry of the deadline for applications to call off the tender. The Board is furthermore entitled to call off the tender if no suitable applications have been received or otherwise for any objective reasons.

The Board is moreover entitled to adjust the conditions for the license stipulated in the tender material or in the tender material before the expiry of the deadline for applications.

If the Board alters the tender material before the deadline for applications, the Board will make a decision as to a possible extension of the deadline. Please see tender material section 5.4 for further details.

All information from the Radio and Television Board about this will be presented on the [Danish Agency for Culture and Palaces' website](#). After the expiry of the application deadline any cancellation, change of conditions as well as a possible extension of the date for the Board's decision etc. will be communicated directly to the applicants' contacts.

As a rule, the tender process including questions and answers, applications and other documents and communication will be in Danish. To accommodate any foreign interested parties the present English summary of the tender material has been prepared.

### **The Board's assessment of the applications**

Upon receiving the applications, the Radio and Television Board will initially be checking whether the applications contain the information requested in the tender material.

The Board can, in accordance with the principle of equal treatment and transparency, ask questions or request the applicant to supplement, clarify or complete the application by submitting relevant information or documents within an appropriate period. However, the Board cannot ask questions or make requests that relate to basic elements of the application, including matters in which the tender documents specifically state that failure to comply with the requirement in the application will lead to rejection of the application.

Pursuant to the executive order, the Board will reject abnormally low bids after a preliminary hearing of the applicant in question. When assessing the applications the Board will therefore e.g. decide whether any bids must be considered unusually low. If so, the applicants will be given the chance to explain this before a decision is made as to a possible rejection. See more about this in section 6.2 in the tender material.

Applications, which do not contain the required minimum of information, which has no bank guarantee of DKK 4 million or where the applicant does not answer questions about additional information, will be rejected by the Radio and Television Board. See section 5.1 in the tender material.

At the Board's assessment of the applications, the quality and realism in the applicant's plan for operation weights 35 percent, the size of the total grant for the entire license period, which the applicant offers to be able to operate the radio channel for 25 percent, and the content of the programs described in the application 40 percent.

In section 6.2 in the tender material it is further explained how the Board is going to conduct the evaluation.

### **License conditions**

Through the license period, the license holder's activities must always be conducted in accordance with the license, unless the Radio and Television Board has approved any changes in relation to the stipulations in the executive order beforehand. The conditions are described in more detail in section 9 in the tender material.

License holder must be an independent legal unit, whose single purpose is to operate the digital public service radio channel.

Sponsored programs are allowed according to the rules of the Radio and Television Act. Advertisements on the radio channel are not allowed.

The licensee is obliged to distribute the radio channel on DAB and to pay for distribution costs. Should it be politically decided at some point during the authorization period to introduce a technology other than DAB, program broadcast may be required using this other technology. In this connection, the licensee does not have any claim for financial or other compensation.

No later than May 1<sup>st</sup> annually, the license holder must submit an annual public service report and an independent annual account for the channel. The report should contain information on the fulfillment of the license terms and an independent annual report for the channel stipulating the result, as the Board has to approve license holder's statement of reasonable profit, possible yield due to product development and the transfer of any operating profits to the following fiscal year. Based on this statement a decision is made as to reimbursement of possible profit. If the license holder does not fulfil their program obligations etc., they must reimburse the relevant estimated savings plus 15 %, cf. annex 3 of the executive order.

In case the license is returned/revoked, accounts and statement of license basis, including statement of reasonable profit etc., must cf. executive order, annex 3, be submitted to the Radio and Television Board no later than by the end of the fourth month after the return/revoke. Any excess-paid

subsidy, including reimbursement after statement of reasonable profit and possible profit due to product development, must be returned no later than at the same time as the submission of accounts. If the license holder has not fulfilled their program obligations etc., they must reimburse the hereby associated, calculated costs plus 15%, cf. executive order annex 3.

The license holder must start broadcasting 24 hours round the clock from November 1<sup>st</sup>, 2019 at the earliest. The requirements under the license enter into force from the start of the license.

### **Entry into force, etc.**

The license is valid from the date stated in the application for the start of broadcasting and four years ahead. Earliest from the 1<sup>st</sup> of November 2019 and latest from the 1<sup>st</sup> of July 2020.

The Radio and Television Board supervises the observance of the conditions in the license and the regulations in the radio and television act, as well as regulations issued in pursuance of the act.

## **Time schedule and language**

### **Time schedule for tender**

The process related to the tender is expected to follow the time schedule below:

Deadline for signing up to the information meeting	Thursday, August 15 <sup>th</sup> , 2019 at 12.00 noon
Information meeting	Monday, August 19 <sup>th</sup> , 2019 at 14.00-16.00
<b>Deadline for questions to tender material</b>	<b>Monday, August 26<sup>th</sup>, 2019 at 12.00 noon</b>
Announcement of responses to questions	Monday, September 2 <sup>nd</sup> , 2019
<b>Deadline for submission of applications</b>	<b>Friday, September 20<sup>th</sup>, 2019 at 12.00 noon</b>
<b>Deadline for submission of banker's guarantee</b>	<b>Friday, September 20<sup>th</sup>, 2019 at 12.00 noon</b>
Announcement of applicants	Wednesday, September 25 <sup>th</sup> , 2019
The Radio and Television Board's estimated assessment of applications	Tuesday, October 22 <sup>nd</sup> , 2019
Expected announcement of successful applicant and issuing of program license	Tuesday, October 22 <sup>nd</sup> , 2019
Start of broadcasting for the licensee	No earlier than November 1 <sup>st</sup> , 2019 and no later than July 1 <sup>st</sup> , 2020

Applications received later than Friday, September 20<sup>th</sup>, 2019 at 12.00 noon will not be accepted.

**Language**

During the tender process, all communication and correspondence is in Danish. That means that for example applications, banker's guarantee, other documents as well as questions must be submitted in Danish. However, it will be possible for the applicants, apart from the obligatory information in Danish, to submit supplementary information about technical details etc. in other Scandinavian languages (Norwegian, Swedish) and/or English. Answers to questions and all communication from the Board will likewise be in Danish.

For the benefit of foreign interested parties, the present unauthorized English translation of the summary of the tender material is published in relation to the tender material.

Failure to comply with the requirement that the application mainly must be written in Danish will automatically result in the application being rejected.