

**INVITATION TO TENDER**

**&**

**STATEMENT OF REQUIREMENT**

**Rail Industry Employment Costs Review**

**CPV Code: 66171000**

**Tender Reference: ORR/CT/21-25**

**Purpose of document**

The purpose of this document is to invite proposals for the [rail industry employment costs review] for the Office of Rail and Road (ORR).

This document contains the following sections:

1. Introduction to the Office of Rail and Road

2. Statement of Requirement

3. Tender Proposal & Evaluation Criteria

4. Procurement Procedures

**1. Introduction to the Office of Rail and Road (ORR)**

The Office of Rail and Road is the independent safety and economic regulator of Britain’s railways who now also hold Highways England to account for its day-to-day efficiency and performance, running the strategic road network, and for delivering the five year road investment strategy set by the Department for Transport (DfT).

ORR currently employs approximately 300 personnel and operates from 6 locations nationwide. The majority of personnel are located at ORR’s headquarters, 25 Cabot Square, London.

Our strategic objectives

**1. Drive for a safer railway:**  
Enforce the law and ensure that the industry delivers continuous improvement in the health and safety of passengers, the workforce and public, by achieving excellence in health and safety culture, management and risk control.

**2. Support a better service for customers:**  
Use our powers to hold the industry to account for performance and standards of service across the railway network, for passengers and freight. Promote on-going improvement in the experience of passengers by encouraging the industry to work together, including to provide greater transparency of information.

**3. Secure value for money from the railway, for users and funders:**  
Strengthen incentives for the whole industry, including through competition and contestability in the supply chain, to drive greater efficiency from the use and maintenance of existing railway capacity and more cost-effective investment in the network.

**4. Secure improved performance and value for money from the strategic road network:**  
Secure improved performance, including efficiency, safety and sustainability, from the strategic road network, for the benefit of road users and the public, through proportionate, risk-based monitoring, increased transparency, enforcement and robust advice on future performance requirements.

Supplying ORR

The ORR procurement unit is responsible for purchasing the goods and services necessary for ORR to achieve its role as the economic and health & safety regulator of the rail industry.

The ORR Procurement unit subscribes to the following values:

* to provide a modern, efficient, transparent and responsible procurement service;
* to achieve value for money by balancing quality and cost;
* to ensure contracts are managed effectively and outputs are delivered;
* to ensure that processes have regard for equality and diversity; and
* to ensure that procurement is undertaken with regard to Law and best practice.

For further information on ORR please visit our website: [www.orr.gov.uk](http://www.orr.gov.uk)

Small and Medium Enterprises

ORR considers that this contract may be suitable for economic operators that are small or medium enterprises (SMEs) and voluntary organisations. However, any selection of tenderers will be based on the criteria set out for the procurement, and the contract will be awarded on the basis of the most economically advantageous tender.

Small and Medium Enterprises and Voluntary Organisations:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Enterprise Category** | **Headcount** | **Turnover** | **Or** | | **Balance Sheet Total** |
| **Micro** | **<10** | **≤ € 2 million** | | **≤ € 2 million** | |
|
| **Small** | **<50** | **≤ € 10 million** | | **≤ € 10 million** | |
|
| **Medium** | **<250** | **≤ € 50 million** | | **≤ € 43 million** | |
|
| **Large** | **>251** | **> € 50 million** | | **> € 43 million** | |

Please ensure that you indicate how your organisation is categorised on the Form of Tender document which should be submitted along with your proposal.**2. Statement of Requirement**

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| **2.1 Background to the project** |
| The ORR is the economic regulator for the UK railway infrastructure. We regulate Network Rail and other railway networks, including the Channel Tunnel and High Speed 1. We regulate Network Rail by conducting five-yearly reviews (“Periodic Reviews”) through which its funding is set along with what it must achieve within each control period.  This project will have two stages, firstly, a review of Network Rail’s employment costs, and secondly, a review of train operator employment costs.  Stage 1: Network Rail employment costs review  This project will form part of our next periodic review (PR23), which will be published at the end of 2023, and which will set Network Rail’s financial settlement for the period between April 2024 and March 2029, also known as control period 7 or CP7.  Reviewing Network Rail’s costs is an important part of our periodic reviews. We have to ensure that Network Rail is delivering value for money.  Employment costs are a large part of Network Rail’s overall costs. Network Rail employ 41 thousand permanent staff (FTE) and 1 thousand agency staff (as of 31 March 2020). In the 2019-20 financial year this cost £2.569bn and represented circa 36% of total spend.  We reviewed employment costs at [PR08](https://www.orr.gov.uk/sites/default/files/om/pr08-empcsts_rep_130209.pdf) and [PR13](https://www.orr.gov.uk/sites/default/files/om/ids-benchmarking-employment-costs-may-2013.pdf) and both studies concluded that Network Rail’s employment costs were higher than the market rate in some areas. This project has a similar scope to these previous reviews.  Stage 2: franchised train operator employment costs review  The ‘[Williams-Shapps plan for rail](https://www.gov.uk/government/publications/great-british-railways-williams-shapps-plan-for-rail)’, published May 2021, outlined a change to the structure of UK Rail and the creation of a single-body, ‘Great British Railways’, which will bring together track and train.  One of the key expectations of the plan is that simplifying the structure of the railway will be more efficient and will lower costs. The plan also states that the ORR will have a key role in monitoring efficiency of the new railway body.  In anticipation of the ORR’s new responsibilities this study will review train operator’s employment costs as well as Network Rail. This will reflect the ORR’s future role in reviewing both track (Network Rail) and train (train operators) under the new rail body. More detail is set out below. |
| **2.2 Project Objectives & Scope** |
| The key objective of this project is to establish whether rail industry employment costs are higher or lower than market comparators. It consists of two stages as set out below with the focus initially on the Network Rail review.  Stage 1: Network Rail employment costs review  The consultant will;   * benchmark Network Rail’s employment costs for each major employee group and against relevant comparators; * consider differences in regional employment costs; * provide reasons for why employments costs are higher or lower than comparators; * highlight any factors which are likely to affect employment costs in the future; * suggest ways in which Network Rail can improve its approach in areas where employment costs are found to be inefficient.   Employment costs mean Network Rail’s permanent and agency staff costs, including pay, allowances, pension costs and any other employment related costs.  The ORR hasn’t defined in advance what ‘relevant comparators’ are used. We expect any bidders to highlight this in their tender response. We would expect a mix of comparators from the transport / infrastructure / construction industries, but also from the civil service as well (where appropriate e.g. for office based staff).  The review is anticipated to take 3 months.  Stage 2: Train operator employment costs review  The scope of this review is the same as stage 1.  This review will take longer than the Network Rail review as it involves circa 20 franchise passenger train operators and circa 61.7k staff. It is likely that this stage of the project will involve extensive engagement with the DfT as well as train operators.  The review is anticipated to take 3 months. |
| **2.3 Project Outputs, Deliverables and Contract Management** |
| **Outputs and Deliverables**  We would require the following outputs and deliverables for both parts of the project;   * Regular progress meetings with project team * A presentation of emerging findings circa halfway through the project * A draft report for comment by all stakeholders * A final report which sets out the findings of the project |
| **2.4 Project Timescales** |
| The provisional project timetable is as follows:  Stage 1: Network Rail employment costs review   * Start-up meeting and commencement w/c 20 September 2021. * Every week an update on progress and any issues. * Presentation of interim findings early November 2021. * Draft report late November 2021. * Final report by December 2021.   Stage 2: Network Rail employment costs review   * Start-up meeting and commencement early January 2022. * Every week an update on progress and any issues. * Presentation of interim findings February 2022. * Draft report February 2022. * Final report March 2022. |
| **2.5 Budget and Payment Schedule** |
| The maximum budget for this review is £150,000 (inc. of expenses, exc. of VAT).  ORR would prefer to pay upon successful completion, however, if bidders wish to supply a milestone payment schedule, then this would be considered. Any proposed milestones must be linked to a tangible deliverable. Payments should also not be front loaded and should reflect the value of the deliverable. |
| **2.6 Further project related information for bidders** |
| **Intellectual Property Rights**  ORR will own the Intellectual Property Rights for all project related documentation and artefacts.  **Transparency requirements**  Please note ORR is required to ensure that any new procurement opportunity above £10,000 (excluding VAT) is published on Contracts Finder, unless the ORR is satisfied it is lawful not to. Once a contract has been awarded as a result of a procurement process, ORR is required to publish details of who won the contract, the contract value and indicate whether the winning supplier is a SME or voluntary sector organisation.  **Confidentiality**  All consultants working on the project may be required to sign a confidentiality agreement and abide by the Cabinet Office’s protective marking guidelines, which ORR uses to protectively mark a proportion of its information. In addition, the consultant may be required to sign additional confidentiality agreements as required by external stakeholders. Conflict of Interest At the date of submitting the tender and prior to entering into any contract, the tenderer warrants that no conflict of interest exists or is likely to arise in the performance of its obligations under this contract; or  Where any potential, actual or perceived conflicts of interest in respect of this contract exist, tenderers need to outline what mitigation/safeguards would be put in place to mitigate the risk of actual or perceived conflicts arising during the delivery of these services.  The ORR will review the mitigation/safeguards in line with the perceived conflict of interest, to determine what level of risk this poses to them. Therefore, if tenderers cannot or are unwilling to suitably demonstrate that they have suitable safeguards to mitigate any risk then their tender will be deemed non-compliant and may be rejected. |

**3. Tender Response & Evaluation criteria**

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| **3.1 The Tender Response** |
| For both parts of the project we would expect the following;  The proposals for this project should include an outline of how bidders will meet the requirement outlined in section (ii) “Statement of Requirement”. The following information should be included:  **a) Understanding of customer's requirements**   * Demonstrate an understanding of the requirement and overall aims of the project   **b) Approach to customer's requirements**   * Provide an explanation of the proposed approach and any methodologies bidders will work to, in particular which ‘relevant comparators’ would be used in the project * A project plan to show how outputs and deliverables will be produced within the required timescales, detailing the resources that will be allocated; * An understanding of the risks, and explain how they would be mitigated to ensure delivery   **c)** **Proposed delivery team**   * Key personnel including details of how their key skills, experience and qualifications align to the delivery of the project; and * Project roles and responsibilities * Some relevant examples of previous work that bidders have carried out (e.g. case studies) * Confirmation that you have carried out the necessary employment checks (e.g. right to work in the UK)   **d) Pricing**  A fixed fee for the project inclusive of all expense. This should include  a breakdown of the personnel who will be involved with the project, along with associated charge rates and anticipated time inputs that can be reconciled to the fixed fee  **e) Conflicts of Interest**  Confirm whether you have any potential, actual or perceived conflicts of interest that may by relevant to this requirement and outline what safeguards would be put in place to mitigate the risk of actual or perceived conflicts arising during the delivery of these services. |
| **3.2 Evaluation Criteria** |
| Tenders will be assessed for compliance with procurement and contractual requirements which will include:   * Completeness of the tender information * Completed Declaration Form of Tender and Disclaimer * Tender submitted in accordance with the conditions and instructions for tendering * Tender submitted by the closing date and time * Compliance with contractual arrangements.   Tenders that are not compliant may be disqualified from the process. We reserve the right to clarify any issues regarding a Bidder’s compliance. It will be at ORR's sole discretion whether to include the relevant Bidder’s response in the next stage of the process.  The contract will be awarded to the Bidder(s) submitting the **‘most economically advantageous tender’**. Tenders will be evaluated according to weighted criteria as follows:  **Methodology (20%)**  The proposal should set out the methodology by which the project requirement will be initiated, delivered and concluded. In particular, it must:  a) Explain the methodology and delivery mechanisms to ensure that the requirements of this specification are met in terms of quality;  b) Explain how your organisation will work in partnership with ORR’s project manager to ensure that the requirement is met   1. Explain how your organisation will engage with external stakeholders;   **Delivery (20%)**  The proposal should set out how and when the project requirement will be delivered. In particular, it must:  a) Explain how this work will be delivered to timescale and how milestones will be met, detailing the resources that will be allocated to each stage;  b) Demonstrate an understanding of the risks, and explain how they would be mitigated to ensure project delivery;  **Experience (30%)**  The proposal should set out any experience relevant to the project requirement. In particular, it must:  a) Provide CVs of the consultants who will be delivering the project;  b) Highlight the organisation’s and the individual’s relevant experience for this project, submitting examples of similar projects.  **Cost / Value for money (30%)**  A **fixed fee** for each element of the project requirement (inclusive of all expenses), including a full price breakdown for each stage of the project and details of the day rates that will apply for the lifetime of this project.   |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | Name of consultant | Grade | Role | Day rate | Number of days | Total cost (ex VAT) | |  |  |  |  |  |  | |  |  |  |  |  |  | |  |  |  |  |  |  |   Please note that consultancy grades should align with the following definitions:   |  |  | | --- | --- | | **Grade** | **Requirement** | | Junior consultant | Demonstrable experience in a wide range of projects in their specialist field. Evidence of client facing experience and support services to wider consultancy projects. | | Consultant | Notable experience and in-depth knowledge of their specialist field. Evidence of a wide range of consultancy projects and client facing experience. Support work in process and organisational design and leading workshops and events. | | Senior Consultant | Substantial experience in their specialist field and in a consultancy/training role. Previous experience in project management and working in a wide range of high quality and relevant projects. Familiarity of the issues/problems facing public sector organisations. | | Principal Consultant | Substantial experience in their specialist field and in a consultancy/training role. Sound knowledge of the public sector and current policy and political issues affecting it. Previous experience in project management on at least three major projects, preferably in the public sector and using the PRINCE2 or equivalent method. | | Managing Consultant | Substantial experience in their specialist field and in a consultancy role. In depth knowledge of the public sector and of current policy and political issues affecting it. Previous experience in project management on at least 5 major projects, preferably in the public sector and using PRINCE2 or equivalent methods. | | Director / Partner | Extensive experience in their specialist field, in which they are nationally or internationally renowned as an expert. Extensive experience of leading or directing major, complex and business critical projects; bringing genuine strategic insight. In depth knowledge of the public sector and of current policy and political issues affecting it. |   **Marking Scheme**  Methodology, Delivery and Experience shall be scored using the following:   |  |  | | --- | --- | | Score 0 | Unanswered or totally inadequate response to the requirement. Complete failure to grasp/reflect the core issues | | 1 | Minimal or poor response to meeting the requirement. Limited understanding, misses some aspects | | 3 | Good understanding and interpretation of requirements, providing clear evidence of how the criterion has been met | | 5 | Excellent response fully addressing the requirement and providing significant additional evidence of how the criterion has been met and how value would be added |   For the Price evaluation the following shall apply:  Fixed fee  The lowest fixed fee for the project will be awarded the maximum price score of 100.  All other bidders will get a price score relative to the lowest fee tendered.  The calculation we will use to calculate your score is as follows:  Price Score = Lowest Total Fee x 100  Bidder’s Total Fee  Your score will then be multiplied by the weighting we have applied to this aspect of the price evaluation to provide a weighted score for the fee. |

**4. Procurement procedures**

Tendering Timetable

The timescales for the procurement process are as follows:

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| **Element** | **Timescale** |
| Invitation to tender issued | 23 July 2021 |
| Deadline for the submission of clarification questions | 27 August 2021 12pm |
| Deadline for submission of proposals | 03 September 2021 12pm |
| Shortlisted suppliers notified | w/c 06 September 2021 |
| Interviews and presentations\* (optional) | w/c 13 September 2021 |
| Award contract | w/c 20 September 2021 |
| Project Inception Meeting | w/c 20 September 2021 |

\*Please ensure that the Project Manager and other key consultants who will be delivering this work are available to give presentations on the interview date

Tendering Instructions and Guidance

**Amendments to ITT document**

Any advice of a modification to the Invitation to Tender will be issued as soon as possible before the Tender submission date and shall be issued as an addendum to, and shall be deemed to constitute part of, the Invitation to Tender. If necessary, ORR shall revise the Tender Date in order to comply with this requirement.

**Clarifications & Queries**

Please note that, for audit purposes, any query in connection with the tender should be submitted via the ORR eTendering portal.The response, as well as the nature of the query, will be notified to all suppliers without disclosing the name of the Supplier who initiated the query.

**Submission Process**

Tenders must be uploaded to the ORR eTendering portal **no later** than the submission date and time shown above. Tenders uploaded after the closing date and time may not be accepted. Bidders have the facility to upload later versions of tenders until the closing date/time.

Please submit the Form of Tender and Disclaimer certificate along with your proposal. If you are already registered on our eTendering portal but have forgotten your login details, please contact the portal administrator.

An evaluation team will evaluate all tenders correctly submitted against the stated evaluation criteria.

By issuing this Invitation to Tender ORR does not undertake to accept the lowest tender, or part or all of any tender. No part of the tender submitted will be returned to the supplier

**Cost & Pricing Information**

Tender costs remain the responsibility of those tendering. This includes any costs or expenses incurred by the supplier in connection with the preparation or delivery or in the evaluation of the tender. All details of the tender, including prices and rates, are to remain valid for acceptance for a period of 90 days from the tender closing date.

Tender prices must be in Sterling.

Once the contract has been awarded, any additional costs incurred which are not reflected in the tender submission will not be accepted for payment.

**References**

References provided as part of the tender may be approached during the tender stage

**Contractual Information**

Following the evaluation of submitted tenders, in accordance with the evaluation criteria stated in this document, a contractor may be selected to perform the services and subsequently issued with an order.

Any contract awarded, as a result of this procurement will be placed with a prime contractor who will take full contractual responsibility for the performance of all obligations under the contract. Any sub-contractors you intend to use to fulfil any aspect of the services must be identified in the tender along with details of their relationship, responsibilities and proposed management arrangements.

The proposal should be submitted in the form of an unconditional offer that is capable of being accepted by the ORR without the need for further negotiation. Any contract arising from this procurement will be based upon ORR’s standard Terms & Conditions (see Form of Agreement attached). You should state in your proposal that you are willing to accept these Terms & Conditions.

The ORR does not expect to negotiate individual terms and expects to contract on the basis of those terms alone. If you do not agree to the Conditions of Contract then your tender may be deselected on that basis alone and not considered further.

The ORR may be prepared to consider non-fundamental changes to the standard terms and conditions in exceptional circumstances. If there are any areas where you feel you are not able to comply with the standard ORR terms and conditions, then details should be submitted as a separate annex to the proposal using the following format:

|  |  |  |  |
| --- | --- | --- | --- |
| ***Clause Number*** | ***Existing Wording*** | ***Proposed Wording*** | ***Rational for amendment*** |
|  |  |  |  |
|  |  |  |  |

Any services arising from this ITT will be carried out pursuant to the contract which comprises of:

* ORR Terms & Conditions;
* Service Schedules;
* this Invite to Tender & Statement of Requirement document; and
* the chosen supplier’s successful tender.

## ORR’s Transparency Obligations and the Freedom of Information Act 2000 (the Act)

The ORR is a central Government department and as such complies with the Government’s transparency agenda. As a result, there is a presumption that contract documentation will be made available to the public via electronic means. The ORR will work with the chosen supplier to establish if any information within the contract should be withheld and the reasons for withholding it from publication.

Typically the following information will be published:

* contract price and any incentivisation mechanisms
* performance metrics and management of them
* plans for management of underperformance and its financial impact
* governance arrangements including through supply chains where significant contract value rests with subcontractors
* resource plans
* service improvement plans

Where appropriate to do so information will be updated as required during the life of the contract so it remains current;

In addition, as a public authority, ORR is subject to the provisions of the Freedom of Information Act 2000. All information submitted to a public authority may need to be disclosed by the public authority in response to a request under the Act. ORR may also decide to include certain information in the publication scheme which it maintains under the Act. If a bidder considers that any of the information included in its proposal is commercially sensitive, it should identify it and explain (in broad terms) what harm may result from disclosure if a request is received and the time period applicable to that sensitivity. Bidders should be aware that even where they have indicated that information is commercially sensitive ORR may be required to disclose it under the Act if a request is received. Bidders should also note that the receipt of any material marked “confidential” or equivalent by the public authority should not be taken to mean that the public authority accepts any duty of confidence by virtue of that marking. If a request is received ORR may also be required to disclose details of unsuccessful bids

Please use the following matrix: to list such information:

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| --- | --- | --- |
| Para. No. | Description | Applicable exemption under FOIA 2000 |
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