



# **INVITATION TO TENDER & STATEMENT OF REQUIREMENT**

**Benchmarking of Network Rail support functions**

**CPV Code: 75100000 ; 72221000**

**Tender Reference: ORR/CT/21-65**

## **Purpose of document**

The purpose of this document is to invite proposals for consultancy support for the Office of Rail and Road (ORR) in respect of its assessment of Network Rail expenditure in the context of the 2023 periodic review (PR23).

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 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. 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. Better rail customer service:**

Improve the rail passenger experience in the consumer areas for which we have regulatory responsibility and take prompt and effective action to improve the service that passengers receive where it is required.

### **3. Value for money from the railway:**

Support the delivery of an efficient, high-performing rail service that provides value for money for passengers, freight customers, governments, and taxpayers.

### **4. Better Highways:**

National Highways operates the strategic road network, managing motorways and major roads in England. Our role is to monitor and hold it to account for its performance and delivery, so that its customers enjoy predictable journeys on England's roads.

## 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:

| <b>Enterprise Category</b> | <b>Headcount</b> | <b>Turnover</b>          | <b>Or</b> | <b>Balance Sheet Total</b> |
|----------------------------|------------------|--------------------------|-----------|----------------------------|
| <b>Micro</b>               | <b>&lt;10</b>    | <b>≤ € 2 million</b>     |           | <b>≤ € 2 million</b>       |
| <b>Small</b>               | <b>&lt;50</b>    | <b>≤ € 10 million</b>    |           | <b>≤ € 10 million</b>      |
| <b>Medium</b>              | <b>&lt;250</b>   | <b>≤ € 50 million</b>    |           | <b>≤ € 43 million</b>      |
| <b>Large</b>               | <b>&gt;251</b>   | <b>&gt; € 50 million</b> |           | <b>&gt; € 43 million</b>   |

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

### 2.1 Background to the project

The ORR has recently begun its 2023 periodic review of Network Rail covering the five years from April 2024 to March 2029. A central element of every periodic review is a cost assessment whereby ORR determines the appropriate level of expenditure required to deliver the outputs set by funders and ORR.

This invitation to tender is concerned with the assessment of Network Rail's expenditure on support functions. These functions are typically delivered centrally rather than by geographical business units and so they are often described as central costs – however, the relevance of the activity is of more pertinence than the allocation. Additionally, there are also certain activities delivered or commissioned centrally that are not considered to be support functions (such as large-scale or highly specialised maintenance or renewal projects) these are outside of this requirement. Figure 1 shows Network Rail's cost structure for 2020-21, with support functions representing around 8% of the total.

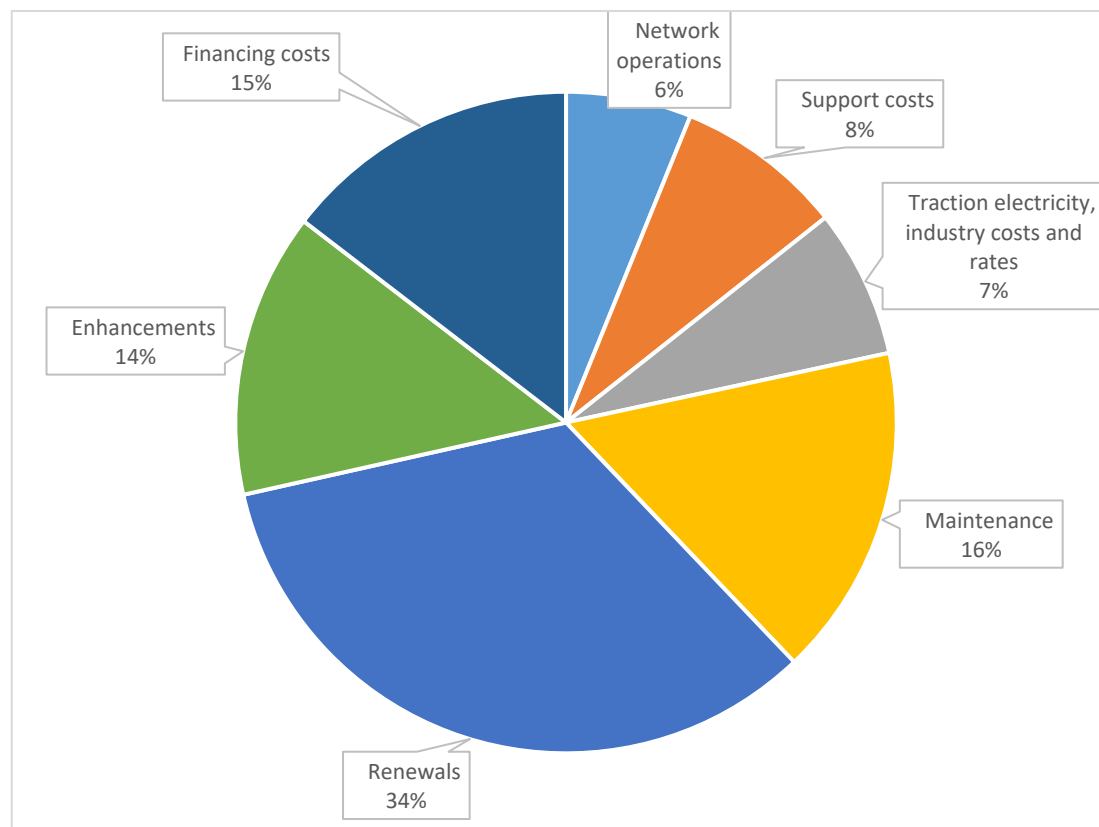


Figure 1 – Key Network Rail expenditure areas FY20/21

ORR has commissioned specific research into support functions in previous periodic reviews. We would specifically highlight the following two projects:

1. Civity's 2013 international benchmarking of Network Rail's operations and support functions expenditure (<https://www.orr.gov.uk/sites/default/files/om/civity-operations-support-apr-13.pdf>). This project compared Network Rail's expenditure on workplace management, asset management, information management, human resources, procurement and finance (87% of all support functions expenditure, p.33) against six other European rail infrastructure managers.
2. CEPA's 2018 evidence on efficiency adjustments, which looked at a sample of case studies of transformation projects in a number of large infrastructure companies and the efficiencies that they delivered in a number of areas, including support functions ([Evidence on Top Down and Bottom-up Efficiency Adjustments for Network Rail's CP6 Maintenance and Renewals \(orr.gov.uk\)](https://www.orr.gov.uk/sites/default/files/cepa-evidence-on-top-down-and-bottom-up-efficiency-adjustments-for-network-rail-cp6-maintenance-and-renewals.pdf)).

Incomes Data Research (IDR) and Steer have recently started a study comparing Network Rail and train operating companies' employment costs. This is part of the ORR's commitment to monitoring costs in anticipation of the new industry structure following the Williams-Schapps plan for rail. This project is likely to complete in April, with early findings likely available early in the new year.

Network Rail has also previously commissioned benchmarking of some of its support functions which has compared its performance on efficiency and effectiveness dimensions against a large number of comparator companies. These include work by firm Hackett covering HR<sup>1</sup> and Finance<sup>2</sup>, which is referenced in these two documents.

## 2.2 Project Objectives & Scope

### Required support

The ORR seeks to commission a consultancy project to benchmark Network Rail's expenditure on support functions. This evidence base will inform our PR23 initial advice to funders, as well as the broader PR23 cost and efficiency assessment.

We anticipate that consultants will compare Network Rail against: domestic companies of comparable scale and/or scope (for example, utility companies or train operating companies); and rail infrastructure managers abroad.

The work should also take account of existing evidence, including work previously commissioned by Network Rail and ORR, any on-going work by

<sup>1</sup> Referenced here <https://www.networkrail.co.uk/wp-content/uploads/2018/02/HR-Strategic-Plan.pdf>

<sup>2</sup> Referenced here <https://www.networkrail.co.uk/wp-content/uploads/2018/02/Finance-Strategic-Plan-1.pdf>

Network Rail and any benchmarking work in other industries from which lessons could be drawn.

The project should aim to cover all of Network Rail's support functions, including:

1. workplace management (comprising facility management, accommodation and utilities);
2. asset management (comprising design, standards & policies, modelling & decision support tools, innovation & R&D);
3. information technology / management;
4. human resources (including organisational development);
5. procurement;
6. finance;
7. legal services;
8. communications (including public relations);
9. regulatory affairs, strategy & planning;
10. land and property development; and
11. safety & security (including British Transport Police).

However, we recognise that some of these functions attract a relatively small proportion of overall expenditure or may not have an equivalent function in comparable organisations. We therefore envisage agreeing with consultants a narrower set of key areas that the project will focus on or some costs being grouped together and would welcome views at the proposal stage on what these should be.

Conversely, some areas of activity may require a more thorough examination than is possible through a broad-based project using a benchmarking approach. We would therefore expect one output of this work to be an evidence-based recommendation *for* areas that would merit a deeper dive using a bottom-up approach.

We anticipate that the following areas of activity would be excluded from the scope of this project unless where they overlap with the support functions highlighted above:

- Large scale, standalone, IT projects, linked to the operation of the rail network;
- Operation of the rail network more generally, including the System Operator function; and
- Maintenance and renewals expenditure delivered centrally rather than through devolved business units.

## **Methodology**

We strongly welcome views from consultants on the most appropriate approach to this work, including on the most relevant comparator



companies, the types of metric we should use and the sub-set of support functions to focus on.

We consider that the project should include:

- a review of evidence from previous work
- comparisons of both staff numbers and overall expenditure, normalised using suitable metrics (such as total FTE staff, total expenditure, network size, total office area);
- a consideration of the extent to which outsourcing and the devolution of some activities to geographical business units, and how this can be addressed to improve comparability and efficiency;
- a consideration of how expenditure has changed over time;
- a view on the extent to which the evidence suggests there is scope to improve efficiency and/or effectiveness; and
- recommendation on areas that merit a deeper dive.

## **Data**

ORR will provide access to relevant data for Network Rail where available and will also facilitate any discussions that may be required between the consultant and Network Rail itself. ORR may also be able to facilitate discussions between the consultant and other relevant organisations.

It will be the consultant's responsibility to source information for comparator companies. ORR would expect data collection plans to be a significant element of the methodology with example data sources identified.

## **2.3 Project Outputs, Deliverables and Contract Management**

### **Outputs/deliverables**

The main output of this work will be a report setting out the analysis and conclusions of the work set out in section 2.2 above.

The report will need to be produced to a publishable standard, as we would expect to publish it alongside ORR's PR23 consultations or other documents.

We also require the consultant to deliver a draft report for comment, which details their provisional findings and recommendations, in advance of the end date for this project. The final report would then incorporate comments and suggested amendments from ORR.

## **Contract Management Arrangements**

We expect the consultant will work closely with ORR's project team leading the PR23 assessment of Network Rail's expenditure. As such, we would expect to have regular interaction with the consultant, as required by the work.

At a minimum, we would expect the consultant to provide a weekly progress update by email, as well as holding fortnightly update meetings to discuss any emerging issues in more detail. We would also expect to have more regular engagement than this at key stages in the project, i.e. at the start of the contract, in order to agree a clear approach and methodology for the work; and in advance of the draft report being produced, to agree the scope and structure of this report.

We expect that most meetings would be conducted virtually over Microsoft Teams. Where circumstances allow, we would seek to conduct the project start-up meeting face-to-face in our London offices.

### **2.4 Project Timescales**

We would anticipate the project taking around 3 months, from mid-January 2022 to mid-April 2022.

### **2.5 Budget and Payment Schedule**

The maximum budget for this piece of work is £75,000 (inclusive of expenses but exclusive of VAT).

ORR would prefer to pay upon successful completion of the two key deliverables (draft and final report); however, if bidders wish to supply a milestone payment schedule, this would be considered. Any proposed milestones must be linked to a tangible deliverable. Payments should also not be frontloaded 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.

### **Sub-Contractors**

Contractors may use sub-contractors subject to the following:

- That the Contractor assumes unconditional responsibility for the overall work and its quality;
- That individual sub-contractors are clearly identified, with fee rates and grades made explicit to the same level of detail as for the members of the lead consulting team.
- Sub-contractors if used, will be bound by the same confidentiality agreements that the Contractor has signed up to.

Internal relationships between the Contractor and its sub-contractors shall be the entire responsibility of the Contractor. Failure to meet deadlines or to deliver work packages by a subcontractor will be attributed by ORR entirely to the Contractor.

### **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

#### 3.1 The Tender Response

The proposals for this project should include an outline of how bidders will meet the requirement outlined in section two ("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 a clear explanation of the proposed approach to the work
- Details of your assumptions and / or constraints and dependencies made in relation to the project (particularly in respect of data availability)
- 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 an explanation of how the consultants would mitigate these to ensure delivery;
- What support bidders will require from ORR.

##### **c) Proposed delivery team**

- Key personnel, including details of how their key skills, experience and qualifications align to the delivery of the project;
- Relevant examples of previous work that bidders have carried out; and
- Confirmation that you have carried out the necessary employment checks (e.g. right to work in the UK).

##### **d) Pricing**

- A fixed fee inclusive of all expenses. 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 be 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 (30%)**

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 overall approach and methodology to ensure that the requirements of this specification are met in terms of quality;
- b) Outline the evidence and data that you are expecting to use, to carry out the required analysis.

### **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 project dependencies and explain how they would be mitigated to ensure project delivery;

c) Explain how you will work with ORR to ensure the project requirements are met.

### Experience (20%)

The proposal should set out the nominated delivery team's experience relevant to the project requirement. In particular, it must:

- a) Provide CVs of the consultants who will be delivering the project;
- b) Highlight relevant experience of the delivery team for this project, submitting examples of similar projects; and

### Cost/value for money (30%)

A **fixed fee** for delivery of the workstreams (inclusive of all expenses), including a full price breakdown for each stage and details of the day rates that will apply for the support phase. The day rates shall not be scored.

| 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. |

## Interviews and Presentations (0%)

Subject to the outcome of the scoring below, the ORR may invite the top scoring suppliers to present their solution.

## Marking Scheme

For Delivery and Experience the following shall apply:

|         |  |
|---------|--|
| 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 Cost/Value for Money evaluation, the following shall apply:

For each workstream the lowest fixed fee 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:

$$\text{Price Score} = \frac{\text{Lowest Total Fee}}{\text{Bidder's Total Fee}} \times 100$$

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:

| Element  | Timescale           |
|--|---------------------|
| Invitation to tender issued                            | 3 December 2021     |
| Deadline for the submission of clarification questions | 24 December 2021    |
| Deadline for submission of proposals                   | 31 December 2021    |
| Award contract   | 14 January 2022     |
| Project Inception Meeting                              | w/c 24 January 2022 |

\*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:

| <b><i>Clause Number</i></b> | <b><i>Existing Wording</i></b> | <b><i>Proposed Wording</i></b> | <b><i>Rational for amendment</i></b> |
|-----------------------------|--------------------------------|--------------------------------|--------------------------------------|
|                             |                                |                                |                                      |
|                             |                                |                                |                                      |

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:

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