

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

**Advice on factors influencing the growth of rail freight**

**CPV Code: 73000000 ; 79000000**

**Supplementary Code: 73200000 ; 79300000 ; 79400000**

**Tender Reference: ORR/CT/21-77**

## **Purpose of document**

The purpose of this document is to invite proposals for advice on factors influencing the growth of rail freight 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 also hold National Highways 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 360 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 and 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

#### Great British Railways – The Williams-Shapps Plan for Rail

The Williams-Shapps Plan for Rail made a number of commitments on rail freight, including:

- a statutory duty for GBR to promote rail freight to secure economic, environmental and social benefits for the nation;
- a new rules-based track access regime;
- support to rail freight growth through more flexible use of train paths, simpler ways of charging and building on longer term contracts to support investment by operators;
- a national freight coordination team;
- embedding freight into strategic decision making, including Incorporating freight into the new 30-year strategy; and
- setting a rail freight growth target, as was done in Scotland for CP7.

What rail freight growth targets the Department for Transport and Transport Scotland will set is not yet known. We anticipate that we will need to take these into account in our CP7 final determination and in the requirements we set for Network Rail in PR23.

#### 2023 Periodic Review

The Office of Rail and Road has started the process for determining the funding needed for Britain rail network from 2024-2029. The process, known as the 2023 Periodic Review (PR23), sets a five-year settlement that will determine the level of funding the infrastructure owner (Network Rail/Great British Railways) should receive for its operation, maintenance and renewals activities and what, in return, it should be required to deliver from this over five years from April 2024, known as Control Period 7 (CP7).

ORR's process will also provide a framework through which ORR will hold the infrastructure owner to account for delivering these during CP7. The UK government has indicated in the Williams- Shapps Plan for Rail that Great British Railways will be held to account for delivering commitments that Network Rail enters into for CP7. This ensures there is clear accountability for delivery and transparency about whether it is achieving this, and stability for investment during a period of change.

PR23 will respond to the challenges facing the railway, and the planned reforms as the Williams-Shapps Plan is implemented. It will support the delivery of a more integrated railway that delivers improvements for customers, both passengers and freight.

## **Understanding how infrastructure managers can support rail freight growth**

To support our determination and subsequent holding to account, we would like to improve our understanding of how infrastructure managers can support the growth of rail freight.

There is a perception that the inclusion of a rail freight growth target in the Scottish government's High Level Output Statement has supporting cultural change and a shift in perceptions of rail freight and its importance. We would like to understand the impact the growth target had, and what lessons should be taken forward in our approach to a growth target during CP7.

We are keen to understand what behaviours, processes and culture should be incentivised in order to support freight growth. There are a variety of factors effecting rail freight, many of which are external to the rail network and therefore outside the control of the infrastructure manager. We would therefore like to focus specifically on what actions and behaviours are within the control of the infrastructure manager, and how it could be held to account for delivering. To provide context for our holding to account for the growth target, we would also like to understand the relative balance between factors within and without the control of the infrastructure manager.

## **2.2 Project Objectives & Scope**

### **Project Objectives**

The project is being commissioned to support ORR activities including preparations for PR23 and ultimately to support our holding Network Rail and Great British Railways (the infrastructure manager) to account for supporting rail freight growth.

### **Scope**

We are seeking services from a consultancy to carry out a review which focuses on the following aspects or questions. The consultant is expected to assess evidence to support the review and provide its comments based on its specialist knowledge and industry best practice.

#### **1. Assessment of the contribution of the infrastructure manager in supporting rail freight growth**

- To provide context: a high-level summary of the barriers to rail freight growth, both external to the infrastructure manager (e.g. difficulty in obtaining planning permission for freight depots) and internal to the rail freight network (e.g. challenges in securing freight paths)
- Assessment of the relative significance of external and internal factors
- Assessment of the of the behaviours, cultures, processes utilised by the infrastructure manager which are supportive of rail freight growth

- Assessment of the of the behaviours, cultures, processes utilised by the infrastructure manager which hinder or restrict rail freight growth

## **2. Assessment of the impact of the rail freight growth target in Scotland**

- Assessment of the changes in approach (process, behaviour, cultural) by the infrastructure manager because of the rail freight growth target in Scotland
- Assessment of the impact the rail freight growth target has had thus far
- Conclusions and recommendations on the lessons that can be learnt from impact of the Scottish rail freight growth target that should be utilised in holding the infrastructure manager to account for any future rail freight growth targets

## **3. Options and recommendations for use in CP7 in incentivising and holding the infrastructure manager to account for their role in supporting the growth of rail freight**

- Development of options for incentivising the infrastructure manager to instil behaviours, processes and culture which are supportive of rail freight growth. These should focus on factors within the control of the infrastructure manager.
- Appraisal of these options, taking into consideration the level of control/influence that can be exercised by the infrastructure manager, the effectiveness and efficiency of the anticipated outcome of the options, and how ORR can most effectively incentivise the infrastructure manager.
- High-level recommendations on how to effectively incentivise the infrastructure manager to instil behaviours, processes and culture which are supportive of rail freight growth e.g., if additional metrics should be included in the final determination
- Conversely, if felt to be useful; high level recommendations on how to effectively disincentivise the infrastructure from undertaking behaviours, processes and culture which are detrimental to rail freight growth
- High level recommendations on how to effectively hold the infrastructures manager to account for its role in supporting rail freight growth e.g., if particular data should be required

The consultant will provide a report outlining findings and associated recommendations.

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

### **Outputs and Deliverables**

The consultant is to deliver:

- Interim presentation of emerging findings
- Draft report for comment which details the findings, conclusions and recommendations.



- Final report which incorporates the amendments from the ORR
- A presentation of the findings and recommendations to the ORR

It is possible that the final report will be published either in full or part on the ORR external website or referenced in ORR published documents. The report should therefore be produced with this in mind and be in a format that meets web accessibility regulations. [Document accessibility guidance for consultants](#)

### **Contract Management Requirements**

It is envisaged that all communication will be via MS Teams or another suitable method.

Whilst this is a relatively short commission, we do require that the consultant provides a brief verbal update of progress every two weeks.

## **2.4 Project Timescales**

The provisional project timetable is as follows (although the consultant may propose a more compressed programme):

- Start-up meeting and commencement: **21 February 2022**
- Update discussions: bi-weekly as mutually convenient
- Presentation of interim findings in **w/c 14 March 2022** (or as agreed)
- Draft report by **21 March 2022**
- Final report by **1 April 2022**
- Final presentation by **1 April 2022**

## **2.5 Budget and Payment Schedule**

### **Budget**

We have estimated the budget at £30,000.00 (inc. expense, ex VAT), however if bidders believe that this does not reflect the required scope then we would welcome this to be raised as part of a tender clarification for us to consider.

### **Payment Schedule**

Our preference is for the payment to be the total fee on the delivery and acceptance by ORR of all the required outputs and/or deliverables. However, bidders may submit a proposed milestone payment plan. Any milestones within the plan must be linked to tangible deliverables and not simply a monthly payment.

## 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.
- 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 (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;
- Details of your assumptions and/or constraints/dependencies made in relation to 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
- 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; and
- Project roles and responsibilities
- Confirmation that you have carried out the necessary employment checks (e.g. right to work in the UK)
- Some relevant examples of previous work that bidders have carried out (e.g. case studies) and Details of at least two relevant reference projects along with contact details of clients

##### **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 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 (25%)

The proposal should set out the methodology by which the project requirement will be initiated, delivered and concluded. In particular, it must:

- Explain the methodology and delivery mechanisms to ensure that the requirements of this specification are met in terms of quality;
- Explain how your organisation will work in partnership with ORR's project manager to ensure that the requirement is met
- Explain how your organisation will draw most effectively on the available evidence
- Explain how your organisation will provide assurance and confidence in the final report

### Delivery (25%)

The proposal should set out how and when the project requirement will be delivered. In particular, it must:

- 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;
- Demonstrate an understanding of the risks, and project dependencies and explain how they would be mitigated to ensure project delivery;
- Explain the resources that will be allocated to delivering the required outcomes/output, and what other resources can be called upon if required.

### Experience (30%)

The proposal should set out any experience relevant to the project requirement. In particular, it must:

- Provide CVs of the consultants who will be delivering the project;
- Highlight the organisation's relevant experience for this project, submitting examples of similar projects.

### Cost / Value for money (20%)

A **fixed fee** for delivery 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.
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## **Marking Scheme**

For Methodology, 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:

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	12 January 2022
Deadline for the submission of clarification questions	24 January 2022 at 17:00hrs
Deadline for submission of proposals	02 February 2022 at 10:00hrs
Award contract	16 February 2022
Project Inception Meeting	21 February 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