

**INVITATION TO TENDER**

**&**

**STATEMENT OF REQUIREMENT**

**Advice to ORR’s Railway Safety Division on: the interaction between Cyber Security and Safety; and Software based high integrity systems**

**CPV Code: 71311200**

**Supplementary Code: 71621000**

**Tender Reference: ORR/CT/22-06**

**Purpose of document**

The purpose of this document is to invite proposals for the provision of advice on: the interaction between cyber security and safety; and software based high integrity systems to 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 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:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **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**

|  |
| --- |
| **2.1 Background to the project** |
| The Railways Safety Division of ORR is responsible for implementing ORR’s Health and Safety strategy for regulating Great Britain’s railways. [Health and safety regulatory strategy (orr.gov.uk)](https://www.orr.gov.uk/sites/default/files/2020-09/health-and-safety-regulatory-strategy.pdf) We expect the railway industry to deliver continuous improvement in the health and safety of passengers, the public and the workforce. Our aim is for industry excellence in its health and safety management maturity, risk control and asset management. In this way, we will achieve our vision of: "zero industry caused fatalities and major injuries to passengers, the public, and the workforce." Our work can be divided in to three major portions: Inspection (50%); Investigation; & statutory work (e.g. Safety Certificate assessment). We have enforcement powers that we use to help deliver our strategy. [Health and safety investigation and enforcement powers | Office of Rail and Road (orr.gov.uk)](https://www.orr.gov.uk/monitoring-regulation/rail/promoting-health-safety/investigation-enforcement-powers)  ORR is not the enforcing authority for cyber security issues in the railway industry, the Secretary of State for transport and the Department for Transport has the lead on the Security of Network and Information Systems (NIS) Regulations 2018 . But the line between safety risks potentially caused by poorly designed, operated and maintained software-based systems and cyber security is a blurred one that will depend on the circumstances.  We require duty holders (transport undertakings, Infrastructure managers, Entities in charge of maintenance, contractors, manufacturers (e.g. of trains, signalling systems, telecoms equipment, control systems etc.)) to manage the health and safety risks that fall out of cyber security failures E.g. Overcrowding; disruption; signalling failures etc. Duty holders should address cyber security issues in the specification, design and purchasing of equipment and systems. They should manage their software-based systems so that software design, operation, maintenance and cyber security risks are managed in the same way as any other risk. These risks should form part of their Safety Management System  ORR is looking for assistance to improve its understanding the overlap between cyber and safety risks and the capability to deliver our regulatory strategy against a background of increasing cyber threat and an increasing number of high integrity software based systems such as, trains, signalling systems, telecom systems etc. We do not expect ORR staff to be experts in cyber security, or software-based systems, but we have to deal with the consequences and for that we need technical advice.  Background information:   * + [Report 17/2019: Loss of safety critical signalling data on the Cambrian Coast line - GOV.UK (www.gov.uk)](https://www.gov.uk/government/news/report-172019-loss-of-safety-critical-signalling-data-on-the-cambrian-coast-line) – failure of design and implementation   + ORR [Report following railway power disruption on 9 Aug 2019](https://www.orr.gov.uk/media/10752/download) – example of design having unintended consequences   + DfT guidance [Rail cyber security: guidance to industry (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/897091/rail-cyber-security-guidance-to-industry-document.pdf)   + ORR Blog [Keeping on track with cyber security | Office of Rail and Road (orr.gov.uk)](https://www.orr.gov.uk/search-news/keeping-track-cyber-security)   + [Implementation of the NIS directive: DfT guidance version 1.1 (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/892104/implementation-of-the-nis-directive-dft-guidance-document.pdf)   + [National Cyber Strategy 2022 - GOV.UK (www.gov.uk)](https://www.gov.uk/government/publications/national-cyber-strategy-2022)   + [The NIS Regulations 2018 - GOV.UK (www.gov.uk)](https://www.gov.uk/government/collections/nis-directive-and-nis-regulations-2018) |
| **2.2 Project Objectives & Scope** |
| We are looking for support in two key areas:   1. Inspection of software based high integrity systems (e.g. on new trains); and 2. Investigation of incidents/accidents where software failure has played a role.  1. Inspection tool We have identified the Cyber Security and Safety Code of Practice issued by the Institution of Engineering & Technology (IET) and the National Cyber Security Centre (NCSC), which is aimed at risk assessment and risk management, as a useful tool to help us to design inspection protocols and form the basis of questions sets that our inspectors could use when conducting investigations.  IET Code of Practice: Cyber Security and Safety <https://electrical.theiet.org/guidance-codes-of-practice/publications-by-category/cyber-security/code-of-practice-cyber-security-and-safety/>  The IET document contains 15 “principles and indicators of good practice” in annex D. These appear to the ORR to offer the potential for a set of challenge questions that could be used by ORR inspectors when meeting with railway duty holders that would line up with ORR’s Risk Management Maturity Model (RM3) [Risk Management Maturity Model (RM3) | Office of Rail and Road (orr.gov.uk)](https://www.orr.gov.uk/guidance-compliance/rail/health-safety/strategy/rm3) and <https://www.orr.gov.uk/sites/default/files/2020-09/risk-management-maturity-model-rm3-2019.pdf>. Which ORR inspectors use to judge the capability of duty holders to manage health and safety.  We would want to work with a Supplier to develop question sets and assessment criteria to cover duty holder systems that contribute to the operation of the railway including: control equipment, monitoring systems, storage systems & company administration where their loss could impact on the ability of the company to operate. The questions would also need to challenge duty holder’s assessment of their supply chain cyber security arrangements and software procurement (specification, design, build, implementation and on-going operation/maintenance). You would have to consult with the DfT as the cyber security policy lead and cyber regulator.  Develop material to guide/train inspectors (who may have very limited existing exposure to cyber security and software issues, but who do understand safety risk assessment and safety management systems) to use the developed questions sets and assessment criteria.  We would need a system of assessed levels for the answers to each question that fits in with the criteria in RM3 and the IET code of practice so that we can judge overall capability and give advice to duty holders on their strengths and weaknesses. 2. Support call off contract element A call off element to the contract (at a stated day rate) to provided expertise in software based systems to support inspectors who are either:   * delivering a planned inspection of a software based system; or * are investigating an accident (under the health and safety at Work Act 1974) where it has been identified that there has been a failure of a software based system as an underlying cause. You would not be required to act as an expert witness.   The failure could be the result of weaknesses in cyber security, in which case a joint investigation would be appropriate with the DfT cyber compliance team that enforce the NIS regulations, in which case you maybe asked to liaise with them and ORR inspectors. Experience: You should be able to demonstrate knowledge & application of:   * the application of the IET Code of Practice: Cyber Security and Safety * preparation and delivery of training material * Standards IEC 62443, IEC 27001 and TS 50701, NIS Regulations (and/or NIST)  Timing: The project would be for 1 year to develop, test and deliver the Inspection material and training element and then provide the call off contract support. After the year ORR will review what has been achieved (inc. knowledge transfer) and consider how we wish to proceed in future years. Security: You may be provided with data and access to systems that may be very sensitive. You will need to demonstrate that you can keep this material securely in line with the Government Security Classification (GSC) scheme (including Cyber Essentials certification). All potential suppliers are encouraged to make themselves aware of the classification requirements and identify any potential impacts in their Tender, as the protective marking and applicable protection of any material passed to, or generated by, you during the tender process or pursuant to any Contract awarded to you as a result of this tender process is subject to the GSC scheme. |
| **2.3 Project Outputs, Deliverables and Contract Management** |
| **Outputs and Deliverables**   * Draft question sets (as set out above) with a system of assessed levels for the answers to each question that fits in with the criteria in RM3 and the IET code of practice so that we can judge overall capability and give advice to duty holders on their strengths and weaknesses. * Draft Training material (that would be delivered by ORR staff and shared with the DfT): to guide/train inspectors who may have very limited existing exposure to cyber security and software issues (but who do understand safety risk assessment and safety management systems) to use the prepare questions sets and the assessment level material (as set out above). * Work with ORR to train one of our staff to use the training material, and deliver a test training program to a group of inspector with the developed material. * Work with ORR to test the draft material during an inspection. * Produce and agree the final product with ORR.   Provide a day rate to supply named experts (with CVs to demonstrate their skills and experience) who can provide expertise in software based systems to help inspectors who are:   * delivering a planned inspection of a software based system; or * investigating an accident where it has been identified that there has been a failure of a software based system as an underlying cause.   ORR will own any intellectual property that you develop as part of this project e.g. questions sets, assessment criteria etc.  The supplier should prepare a project plan and present it with the proposal. If a contract is awarded to the supplier, the plan should be kept up-to-date.  **Contract Management Requirements**  Monthly meetings which may be face-to-face or remotely to update ORR on progress with the deliverable report, along side a written progress report.  The investigation day rate expert(s) will need to work closely with the investigation manager: to understand what work will need to be done; give an estimate of how much time it will take; report on agreed basis to the investigation manager, keeping them appraised of the costs and outputs at least on a monthly basis.  Work on Call Off elements should only commence once the Supplier has approval in writing from the ORR Contract Manager or the relevant investigation manager. |
| **2.4 Project Timescales** |
| The provisional project timetable is as follows:  Phase one – Draft question sets and assessment criteria   * Start up meeting and commencement w/c 25/07/22. * Monthly updates on progress and any issues * Presentation of draft material TBA (please indicate an estimated date as part of your tender response)   Phase two – Training – prepare training material and test with ORR staff   * Monthly updates on progress and any issues * Undertake test training * Revise training material in light of experience * Presentation of draft material TBA (please indicate an estimated date as part of your tender response)   Phase three - Call off contract phase   * Work with ORR staff if required, at agreed rate, to carry out an inspection alongside ORR staff, utilising the draft material assessment material and deliver a joint report on the capability of the duty holder that has been inspected * Support ORR during an investigation, if required by ORR * ORR to provide comments/feedback on the draft materials in the light of experience * Supplier to review comments/feedback on the draft materials and provide an agreed final version of the material by the 31st March 2023 |
| **2.5 Budget and Payment Schedule** |
| The maximum budget for all three phases of this piece of work is £50,000.00 (inc. of expenses, exc. of VAT).  Payment for phases 1 and 2 shall be on completion and acceptance by ORR of all required outputs and/or deliverables of those phases.  Tasks initiated under phase 3 shall be subject to their own payment mechanism. |
| **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 * Compliance with any security requirements outlined in the SOR, including details of accreditation for systems (e.g. ISO27000, Cyber Essentials) etc. * 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 (eg. case studies)   **d) Pricing**  A fixed fee for phase 1 and 2 of 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.  For phase 3 please supply a schedule of day rates for the named resource that shall be available for individual call off tasks.  **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; 2. Outline how the proposed approach utilises **innovative** consultation methodologies to develop a diverse and comprehensive evidence-base   **Delivery (25%)**  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 the resources that will be allocated to delivering the required outcomes/output, and what other resources can be called upon if required.  **Experience (35%)**  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 relevant experience for this project, submitting examples of similar projects.  **Cost / Value for money (20%)**  **Price (15% for the fixed fee and 5% for the day rates)**  A **fixed fee** for delivery of phase 1 and 2 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**  For the 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 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.  Day rates  An average day rate shall be calculated using the day rates supplied.  The lowest average day rate will be awarded the maximum score of 100. All other bidders will receive a score relative to the lowest average rate. |

**4. Procurement procedures**

Tendering Timetable

The timescales for the procurement process are as follows:

|  |  |
| --- | --- |
| **Element** | **Timescale** |
| Invitation to tender issued | 13 Jun 22 |
| Deadline for the submission of clarification questions | 22 Jun 22 at 12:00hrs |
| Deadline for submission of proposals | 29 Jun 22 at 12:00hrs |
| Interviews and presentations\* | w/c 04 Jul 22 |
| Award contract | w/c 11 Jul 22 |
| Project Inception Meeting | w/c 25 Jul 22 |

\*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:

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