

**INVITATION TO TENDER**

**&**

**STATEMENT OF REQUIREMENT**

**A review of best practice in complaints handling procedures and guidance**

**CPV Code: 73210000**

**Tender Reference: ORR/CT/20-26**

**Purpose of document**

The purpose of this document is to invite proposals for **<a review of best practice in complaints handling procedures and guidance>** for the Office of Rail and Road (ORR).

This document contains the following sections:

 1. Introduction to the Office of Rail and Road

 2. Statement of Requirement

 3. Tender Proposal & Evaluation Criteria

 4. Procurement Procedures

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

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

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

Our strategic objectives

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

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

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

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

Supplying ORR

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

The ORR Procurement unit subscribes to the following values:

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

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

Small and Medium Enterprises

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

Small and Medium Enterprises and Voluntary Organisations:

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

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

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| **2.1 Background to the project** |
| ORR’s consumer team oversees a number of passenger facing obligations which sit within train companies’ and Network Rail’s licences. One of these obligations is for train and station operators to establish and maintain a complaints handling procedure (CHP) for handling complaints relating to licensed activities from customers and potential customers. As part of our role, we approve licence holders’ CHPs and monitor compliance with them. In 2015 we published [guidance](https://orr.gov.uk/__data/assets/pdf_file/0020/19370/complaints-handling-procedure-guidance-2015.pdf) on complaints handling procedures for licence holders, setting out what we will look for when exercising our approval role and when monitoring for continued compliance. Much has changed since the publication of our guidance, including passenger expectations in the means and speed by which they expect complaints to be handled, as well as the introduction of the Rail Ombudsman. We therefore plan to undertake a review of our guidance in 2020-21 to ensure it remains fit for purpose. In order to support the review, we wish to commission a piece of consultancy research to consider whether aspects of our current guidance continue to reflect best practice, and provide us with an overview of approaches to the regulation of first tier complaints handling in other regulated sectors. The outputs from this work will inform the review of our guidance on which we intend to consult publicly in 2021.  |
| **2.2 Project Objectives & Scope** |
| The purpose of this research is to consider whether aspects of our current guidance on complaints handling procedures continue to reflect best practice, so that the requirements we place on train companies keep pace with the latest developments and consumer expectations. It should also provide an overview of approaches taken to the regulation of first tier complaints handling in other regulated sectors with an ombudsman scheme which are judged to be suitable comparators to rail, and which we may draw on to inform our own approach to our guidance and approvals role. The following key activities are envisaged:**1) Approaches to the regulation of first tier complaints handling in other regulated sectors**ORR provides guidance on what a good complaints handling procedure should contain, as well as approving individual licence holder’s CHPs, and material changes to them. The research should identify approaches taken and methods used by regulators in other regulated sectors, including the balance struck between general principles, versus detailed rules and guidance. This should include identifying equivalents to our guidance and approvals role, and gathering evidence and insight from regulatory bodies regarding the relative success of their models in driving positive outcomes for consumers, as well as providing transparency and ease for the purposes of monitoring and enforcement. Research commissioned by ORR from Queen Margaret University in 2018 considered some of these issues in relation to the communications, energy, finance and legal sectors. While this project may usefully draw on and update the findings from that [report](https://www.orr.gov.uk/sites/default/files/om/a-review-of-organisational-complaint-handling-in-regulated-sectors-with-an-ombudsman-for-the-office-of-rail-and-road.pdf) where relevant, we will also be looking for the successful bidder to propose additional comparators which recognise the unique consumer landscape the rail industry provides. This may consider but not be limited to sectors such as health and education, where complaints are directed at what might be considered public services, and where opportunities to “switch provider” are less relevant. It may also consider suitable international comparators in rail, or in the transport sector more widely. We will look for evidence of a suitable methodology for identifying comparators in the proposals put forwards. The outputs from this part of the research should include a clear set of lessons learned which could be practically applied when considering our approach to our own guidance and approvals role. **2) A review of best practice in complaints handling** The project should also review ORR’s current complaints handling guidance and consider whether it continues to reflect best practice, and/or whether there are gaps or improvements that could be made. This should have regard to relevant literature and best practice. It will also require engagement with train operating companies and Network Rail to identify examples of best practice and innovation which can be used to inform our guidance.The review should include but not necessarily be limited to: * **Our definition of a good complaints handling procedure, a complaint, and our approach to core standards and service standards**. We expect licence holders’ CHPs to be constructed around three core standards. These are set out in detail in our [current guidance](https://orr.gov.uk/__data/assets/pdf_file/0020/19370/complaints-handling-procedure-guidance-2015.pdf), but cover 1) feedback mechanisms and response; 2) people, process and structure; and 3) organisational culture. We also expect licence holders to set out and publish service standards in relation to complaints handling, and our guidance sets out what we expect these to cover. As well as reviewing these against best practice, the research should give consideration to whether there are alternatives to the core standards we set out which would promote excellence in first-tier complaints handling (such as, for example, higher-level principles, or outcomes based approaches).
* **Response times** Our current guidance requires licence holders to make a full response to 95% of all complaints within 20 working days. The research should identify current industry best practice in terms of response times, as well as other regulators’ approaches to setting response times and to incentivising the prompt resolution of first-tier-complaints. The work should also consider issues that are specific to the sector, such as whether operators in rail and other sectors differentiate response times for certain types of contacts and complaints that are deemed to be priority issues (for example, safety). This may include international comparators in rail.
* **Access routes** The review should consider whether the access routes for complainants as set out in our guidance continue to reflect best practice, including with regard to social media and other channels. Our current guidance requires operators to assist a complainant in making a formal complaint where the circumstances of the complaint on social media lend themselves to an investigation. The work should consider whether and how our guidance could go further in this area in order to recognise industry best practice and approaches taken in other regulated sectors, both in relation to responding to complaints submitted on social media, and their treatment in terms of reporting requirements and response times. It should also consider whether any particular arrangements should exist more broadly regarding the receipt and response to complaints from vulnerable consumers and/or training of staff to identify consumers in vulnerable situations.
* **Escalation and signposting to ADR** The work should also provide an overview of current practice in other regulated sectors regarding signposting and referral rights to ADR/an ombudsman. Specifically, how, and at what stage (or stages) in the complaints handling process must information regarding the relevant ADR scheme be made available to complainants, and in what form? What stipulations around signposting to ADR are set out by regulators in rules and/or guidance? The work should also provide an overview of current timescales for escalating complaints to ADR providers in other regulated sectors (including for public sector schemes), and current thinking with regards to future change/reform.
* **Other areas** We may require the review to examine other relevant aspects of our guidance as identified in collaboration with the consultants, such as the current requirements around promoting awareness, staff training, and our descriptions of a well-managed complaints handling process. The bidder should allow for this eventuality within its proposals.

We anticipate the project requiring interactions with other regulators and licence holders such as train operating companies and Network Rail. Approaches will need to be made whilst being mindful of resource burden on those bodies; we will assist in identifying relevant companies and contacts. And as set out above, careful consideration should be given to a suitable set of comparators.  |
| **2.3 Project Outputs, Deliverables and Contract Management**  |
| **Outputs and Deliverables*** Ad-hoc contact by telephone/email as needed; weekly updates (which may be via calls or email) with the project manager;
* An interim presentation with emerging findings;
* Draft report for comment by ORR team;
* Final report to a publishable standard, which incorporates the amendments from the ORR.
* A final presentation on findings to the ORR team and relevant stakeholders
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| **2.4 Project Timescales** |
| The provisional project timetable is as follows:* Start-up meeting and commencement w/c 05 October
* Weekly updates on progress and any issues
* Presentation of interim findings (as agreed)
* Draft report (as agreed)
* Final report by the week ending 18 December

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| **2.5 Budget and Payment Schedule** |
| The budget for this piece of work is £25,000 (inc. of expenses, exc. of VAT). Payment of the total fee will be on the delivery and acceptance by ORR of all required outputs and/or deliverables. |
| **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 InterestAt the date of submitting the tender and prior to entering into any contract, the tenderer warrants that no conflict of interest exists or is likely to arise in the performance of its obligations under this contract; or Where any potential, actual or perceived conflicts of interest in respect of this contract exist, tenderers need to outline what mitigation/safeguards would be put in place to mitigate the risk of actual or perceived conflicts arising during the delivery of these services.The ORR will review the mitigation/safeguards in line with the perceived conflict of interest, to determine what level of risk this poses to them. Therefore, if tenderers cannot or are unwilling to suitably demonstrate that they have suitable safeguards to mitigate any risk then their tender will be deemed non-compliant and may be rejected. |

**3. Tender Response & Evaluation criteria**

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| **3.1 The Tender Response** |
| 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
* Some relevant examples of previous work that bidders have carried out (eg. case studies) **AND/OR** 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 includea breakdown of the personnel who will be involved with the project, along with associated charge rates and anticipated time inputs that can be reconciled to the fixed fee.**e) Conflicts of Interest**Confirm whether you have any potential, actual or perceived conflicts of interest that may by relevant to this requirement and outline what safeguards would be put in place to mitigate the risk of actual or perceived conflicts arising during the delivery of these services. |
| **3.2 Evaluation Criteria** |
| Tenders will be assessed for compliance with procurement and contractual requirements which will include:* Completeness of the tender information
* Completed Declaration Form of Tender and Disclaimer
* Tender submitted in accordance with the conditions and instructions for tendering
* Tender submitted by the closing date and time
* Compliance with contractual arrangements.

Tenders that are not compliant may be disqualified from the process. We reserve the right to clarify any issues regarding a Bidder’s compliance. It will be at ORR's sole discretion whether to include the relevant Bidder’s response in the next stage of the process. The contract will be awarded to the Bidder(s) submitting the **‘most economically advantageous tender’**. Tenders will be evaluated according to weighted criteria as follows: **Methodology (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 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 met1. 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 (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 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: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%)**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.

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| Name of consultant | Grade | Role  | Day rate | Number of days | Total cost (ex VAT) |
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Please note that consultancy grades should align with the following definitions:

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| **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**

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| 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 |

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**4. Procurement procedures**

Tendering Timetable

The timescales for the procurement process are as follows:

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| **Element** | **Timescale** |
| Invitation to tender issued | 07 September |
| Deadline for the submission of clarification questions | 15 September 5pm |
| Deadline for submission of proposals | 21 September 5pm |
| Shortlisted suppliers notified | w/c 21 September  |
| Interviews and presentations\* | 25 September (if required) |
| Award contract | w/c 28 September  |
| Project Inception Meeting | w/c 05 October |

\*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:

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| --- | --- | --- | --- |
| ***Clause Number*** | ***Existing Wording*** | ***Proposed Wording*** | ***Rational for amendment*** |
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Any services arising from this ITT will be carried out pursuant to the contract which comprises of:

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

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

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

Typically the following information will be published:

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

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

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

Please use the following matrix: to list such information:

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