

**INVITATION TO TENDER**

**&**

**STATEMENT OF REQUIREMENT**

**Investigation into Unauthorised Structural Subsystems**

**CPV Code: 71311200**

**Supplementary Code: 79400000**

**Tender Reference: ORR/CT/22-38**

**Purpose of document**

The purpose of this document is to invite proposals for an Investigation into Civil engineering works completed without an Authorisation from 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) 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** |
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| **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** |
| Part the ORR’s role is ensuring due process is followed, the Civil Engineering team ensure that appropriate interoperability authorisations in relation to structural subsystems under the Railways (Interoperability) Regulations 2011 are undertaken.**Background information**1.1 The Railways (Interoperability)(Amendment)(EU Exit) Regulations 2019 ensure that there is a clear and accessible technical standards framework in place from 1 January 2021, and that the railway interoperability regime is maintained. 1.2 These regulations amend the Railways (Interoperability) Regulations 2011 (RIR 2011), which transposed EU Directive 2008/57/EC on the interoperability of the European rail system (‘the Interoperability Directive’). 1.3 One of the requirements of the Interoperability Regulations is that no structural or vehicle subsystem can be put into use on or as part of the GB rail system unless the Office of Rail and Road (ORR) has provided an interoperability authorisation for the placing in service of that subsystem.1.5 Interoperability Directive has been transposed into domestic legislation by the Regulations. Under the Regulations, an interoperability authorisation must be obtained for the placing in service of a structural subsystem (which includes infrastructure and rolling stock) before that subsystem is put into use on or as part of the rail system in the UK. 1.6 An interoperability authorisation provides confirmation that, to the extent required, new, upgraded or renewed structural subsystems meet the essential requirements and comply with all relevant and applicable legal requirements.1.7 The Safety Authority is responsible for issuing interoperability authorisations. ORR is responsible for issuing such authorisations in the UK**Summary**The ORR are responsible in assuring compliance with the Railways (Interoperability) Regulations 2011 and subsequent The Railways (Interoperability)(Amendment) (EU Exit) Regulations 2019. In the event of identifying non-compliance, the ORR wish to understand the drivers allowing these incidents to occur and the implications in terms of safety, quality, cost and performance to the network. |
| **2.2 Project Objectives & Scope** |
| The ORR are aware of an issue where sub-systems have been brought into use without an Interoperability authorisation. The ORR want, on a NR Region basis the following;1. The size of the issue (i.e. the number of sub-systems brought into use without an authorisation where an authorisation was most likely required).2. The significance of the issue in terms of regulatory compliance as well as future safety, quality and cost implications. 3. An evidenced opinion on the cause(s) of the issue.4. An informed opinion on whether the issue is ongoing and whether NR are adequately addressing the issue.The scope shall include the following:* NR led and 3rd Party projects going back to 1st April 2017.
* Collecting evidence from Network Rail Sponsors, DEAM’s and Capital Delivery Directors on current and previous construction projects
* Investigating a sample of infrastructure projects completed, including but not exclusively 3rd party station projects, using this a base line, collect statements from Network Rail
* Investigating a sample of current projects in progress but not captured in ORR authorisation or others trackers
* The consultant shall ensure the Network Rail and 3rd party owned projects receive equal scrutiny, ORR are interested to understand the relationship that both 3rd parties and Network Rail have with the authorisation process
* Understanding relationship of ASPRO (Asset Protection) with 3rd parties
* Understanding why any identified unauthorised works continued without a Network Change Notification
* Investigating differences in process and acceptance between SRPs (System Review panel) across the regions to understand level of variability across the Network
* Provide evidence of good and poor practices
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| **2.3 Project Outputs, Deliverables and Contract Management** |
| The consultant is expected to: * Deliver a request for information to Network Rail regions
* Conduct a review and consolidation of findings
* Conduct interviews and meetings with Network Rail and other stakeholders to ratify findings
* Conduct weekly interim presentation of emerging findings, progress updates and issues
* Deliver a presentation of interim findings before draft report
* Deliver a draft report for comments, detailing: findings, conclusions, and recommendations
* Deliver a final report which incorporates the amendments from the ORR. The report shall meet the accessibility requirements of the ORR. The report shall be in good written English, will have been professionally proof read and edited. The report shall make good use of visualisations, graphics and tables. The project methodology shall be included as an appendix.
* Deliver a final presentation of the findings and recommendations to the ORR

 **Contract Management Requirements*** Expectation of regular engagement, as often as is agreed at start of contract
* Weekly touchpoint via teams/phone, for brief update and notification of any roadblocks
* Monthly in teams meeting to provide full update, findings so far
* Notification of any emerging issues or evidence with safety implications
* Consultant to flag deviations to timing plan and roadblocks
* Project Manager to oversee all stages
* There is a requirement to have an editor and proof-reader for draft and final report
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| **2.4 Project Timescales** |
| The provisional project timetable is as follows:* Start-up meeting and outline of scope – w/c 24/10/22
* Consultant to provide feedback and agree scope based on previous meeting – 31/10/22
* Mobilisation – Requests for Information to be delivered to Network Rail 04/11/22 - 09/11/22 – Responses could likely take up to 02/01/23
* Review Request for Information responses from Network Rail – 09/01/23 – 30/01/23
* Interviews with Network Rail and 3rd Party – 06/02/23 – 28/04/23
* Draft report – 01/05/23 – 15/05/23
* ORR feedback on draft report 16/05/23 – 22/05/23
* Final draft and conclusions 23/05/22 – 06/06/23
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| **2.5 Budget and Payment Schedule** |
| **Disclosure of budget at tendering stage is not always advisable – speak to Procurement team for advice**The maximum budget for this piece of work is £51,000 (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
* An explanation of how the consultant shall add value.

**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 and 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 (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 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 (20%)**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 (30%)**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 |

For the Price evaluation the following shall apply:Fixed feeThe 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 FeeYour 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, dates are indicative and will be based on a week commencing schedule.

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| **Element** | **Timescale** |
| Invitation to tender issued | 09 Sep 22 |
| Deadline for the submission of clarification questions | 07 Oct 22 at 1700hrs |
| Deadline for submission of proposals | 12 Oct 22 at 1700hrs |
| Shortlisted suppliers notified | 14 Oct 22 |
| Interviews and presentations\* | 20 Oct 22 |
| Award contract | 24 Oct 22 |
| Project Inception Meeting | w/c 24 Oct 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

**Accessibility Guidelines**

As a public body we are legally required to comply with accessibility guidelines. Please ensure any commissioned report is in a format that meets web accessibility regulations. [**Document accessibility guidance for consultants**](file:///C%3A%5CUsers%5CBAugusto%5CAppData%5CLocal%5CBox%5CBox%20Edit%5CDocuments%5Cccf3VgqfXkaV5GQ1YEEwTA%3D%3D%5CDocument%20accessibility%20guidance%20for%20consultants)

**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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