

**INVITATION TO TENDER**

**&**

**STATEMENT OF REQUIREMENT**

**Obtaining stakeholder views on the quality of Network Rail’s stakeholder engagement, for year 2 of Control Period 6**

**CPV Code: 79311000**

**Tender Reference: ORR/CT/20-58**

**Purpose of document**

The purpose of this document is to invite proposals for **consultancy support to obtain stakeholder views on the quality of Network Rail’s stakeholder engagement for year 2 of Control Period 6,** 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:

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

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| **2.1 Background to the project** |
| The Office of Rail and Road is the independent economic regulator for Britain’s railway infrastructure. A key element of this role is holding Network Rail to account for delivering what it promised – at the amount it agreed to do it for – and ensuring it meets its obligation to provide a safe, high-performing, and efficient railway. We do this by enforcing compliance with its licences and by conducting five-yearly reviews (known as “periodic reviews”) that set its funding and what it must achieve within the relevant control period.The 2018 periodic review (PR18) determined what Network Rail should deliver in the current control period (control period 6, or CP6, which runs from April 1 2019 to 31 March 2024). As part of PR18, we also set out how we intend to hold Network Rail to account for the delivery of its commitments in our PR18 final determination, over the course CP6.For PR18, we have placed significant emphasis on the importance of **good stakeholder engagement** between Network Rail and its customers (i.e. train operators) and other stakeholders (e.g. funders, freight and open access operators, suppliers, etc). This reflects our view that Network Rail’s customers and stakeholders should play an effective role in influencing how Network Rail delivers on its commitments, as well as being able to effectively challenge them where performance falls below what is expected.To do this, we established new obligations in Network Rail’s network licence with respect to stakeholder engagement[[1]](#footnote-1). In line with those obligations, we also set out in our PR18 final determination some more detailed expectations for how Network Rail should act to achieve the full benefits of good stakeholder engagement for the railway. While we have not prescribed exactly how it should engage with stakeholders, we have set out high-level principles of good engagement which we expect it to comply with: **Effectiveness**: the engagement should support delivery of a safer, more efficient and better used rail network, including by ensuring that stakeholders’ views are taken into account;**Inclusivity**: the engagement should seek to involve all relevant stakeholders in a fair and proportionate manner;**Governance**: the engagement is underpinned by effective processes and governance arrangements that encourage meaningful engagement and accountability; and**Transparency**: Network Rail provides sufficient information to stakeholders to enable them to engage properly, and can demonstrate how it has engaged with its stakeholders and how this has influenced its actions and delivery.We are monitoring Network Rail’s compliance with its obligations and expectations in respect of stakeholder engagement, throughout CP6. In addition to this ongoing monitoring, **we have also committed to undertaking an annual assessment of the quality of Network Rail’s stakeholder engagement**[[2]](#footnote-2)**.** The purpose of these assessments is to provide an incentive for Network Rail’s geographic regions, as well as its System Operator (SO) function and Freight Operator (NR Freight) route, subsequently named the “business units”, to improve the way they engage with their stakeholders over the course of CP6. Our assessments can also highlight and promote the adoption of best practice across the regions / SO / NR Freight.We published our year 1 assessment report in August 2020[[3]](#footnote-3), which set out our assessment of Network Rail’s stakeholder engagement in two areas: annual business planning; and developing and agreeing ‘scorecards’ with its train operator customers[[4]](#footnote-4). A key input to the assessment was the views of Network Rail’s stakeholders on the quality of Network Rail’s engagement, which we collected through an online survey and a few telephone interviews conducted in April 2020[[5]](#footnote-5). In addition to this, we drew upon information submitted to us by Network Rail business units and internal intelligence.  |
| * 1. **Project Objectives & Scope**
 |
| We are currently preparing for our second assessment of the quality of Network Rail’s stakeholder engagement, for year 2 of CP6 (April 2020 to March 2021). We are commissioning a company with the appropriate skills to carry out an online stakeholder survey and an optional telephone survey. The optional telephone survey will consist of either 20,30 or 40 people.The appointed company will undertake the following key activities:* + **Produce a detailed plan for the design and implementation of the stakeholder survey**, having regards to the requirements set out below. The plan should be produced in liaison with ORR and approved by ORR.
	+ **Support the design of and conduct an online survey** (i.e**.** methodology, sample, and questions), with a view to maximise response rate and collect the required minimum number of responses.
	+ **(Optional) Design and conduct telephone interviews**
	+ **Produce a detailed final report on the findings.**

The final report will form a key input to ORR’s overall assessment of the quality of business units’ stakeholder engagement for year 2 of CP6. We will begin our assessment in parallel with this project, and we expect to publish our assessment in late August 2021. We require the consultant to create a plan to design and conduct the survey, in liaison with ORR. This plan should include proposals in respect of the following aspects of the survey, set out in some detail so that we can assess its overall robustness.Survey sampleNetwork Rail’s network licence defines “stakeholder” broadly, as any person with which Network Rail has (now or in the future) a significant relationship; any person who may be impacted by the activities of Network Rail; and any person who has expressed a serious interest in providing railway services, facilities or networks[[6]](#footnote-6). Accordingly, our survey sample needs to reflect the breadth of Network Rail’s stakeholder community in the wider rail industry. We consider that it should cover the following key stakeholder groups[[7]](#footnote-7):* train operators (i.e. ERMA and non-ERMA passenger operators[[8]](#footnote-8), freight operators and open-access operators);
* freight operators;
* funders; (but not Department for Transport or Transport Scotland, who ORR will canvass separately);
* passengers (via passenger representative groups);
* suppliers (via representative groups); and,
* local transport authorities;
* other infrastructure owners / developers (besides Network Rail).

We assess Network Rail’s stakeholder engagement at the business unit (regions and System Operator) level, rather than at the level of the organisation. This means that the year 2 stakeholder survey should **collect the views of a representative and sufficient sample of these stakeholder groups *for each business unit***. A priority of the year 2 stakeholder survey is to collect more responses. Last year’s survey contacted 142 individuals but collected only 32 responses (response rate of 23%), which we assume to be in part due to the Covid-19 pandemic. By way of comparison, we commissioned a similar project in 2018 for which around 100 individuals were contacted, and 40 responses were collected. We thus consider it feasible to significantly increase the response rate and number of responses of the year 2 survey. ORR is currently working towards expanding the number of stakeholders to contact. We also expect the consultant to work with ORR and Network Rail to refine and expand the sample. We expect the consultant to provide support to identify additional relevant stakeholders to contact (and possibly the appropriate individual to contact) and to ensure that the sample is adequate to meet the requirements on representativity and response rate. We expect the consultant to be particularly proactive to boost the response rate and we will pay regards to the bidders’ proposed strategy for raising the response rate when assessing the offers. We also require the consultant to provide us with weekly updates on the response rate when the fieldwork starts and to be prepared to develop a plan to boost the response rate, if necessary. We require the consultant to **deploy the necessary means to achieve a** **response rate of at least 30%**. We recognise that this requirement must be balanced with the need to engage with the stakeholders in a proportionate manner[[9]](#footnote-9). To assess whether due means have been employed to collect responses, we will take into consideration the following elements: * the number of stakeholders contacted;
* whether the agreed principles and methods of engagement were followed;
* whether gentle reminders were sent in a timely manner;
* whether the methods for collecting responses were tailored to each stakeholder group;
* whether the consultant updated us on a weekly basis on current response rate; and,
* whether the consultant demonstrated that they had designed and implemented robust plans to boost response rate in a timely manner.

Survey questionsIt is particularly important that the questionnaire be scripted in a way which ensures we obtain feedback specifically on the *quality of engagement*, not on stakeholders’ *general satisfaction* with Network Rail. We welcome consultant’s views on how best to achieve this. In contrast with our year 1 assessment, we are not limiting the scope of the assessment to business planning and agreeing and developing scorecards and we are welcoming stakeholders’ views on any aspect of Network Rail’s stakeholder engagement. We have, however, defined a number of issues that we would be particularly interested in knowing how Network Rail’s stakeholders feel they have been engaged on[[10]](#footnote-10): * + - * Business planning;
			* Development of scorecards (as described above);
			* Progress made on the areas for improvement identified in our year 1 assessment[[11]](#footnote-11);
			* The impacts of the coronavirus pandemic;
			* How business units have engaged with ERMA TOCs on the areas covered in the ERMA agreements (as described above);
			* The effectiveness of Network Rail’s engagement on enhancements, specifically the Enhancements Delivery Plan[[12]](#footnote-12); and,
			* Early CP7 planning.

In last year’s survey, we also asked respondents about their general perceptions of the quality of business units’ engagement. As far as possible, we intend to repeat these questions to allow for comparability across years (although this does not prevent us from adding new questions). We will provide an initial list of questions and we expect the consultant to refine and finalise this list in collaboration with Network Rail and ORR. In particular, as this is an area requiring consumer / stakeholder research expertise, we are interested in consultant’s views and advice on issues such as the most appropriate questionnaire length (which allows us to cover the range of issues without unduly fatiguing respondents) and the appropriate mix of qualitative and quantitative questions for an exercise of this nature. In addition, we expect the consultant to ensure that the questionnaire be sent only once to each stakeholder (excluding reminders) and tailored to different stakeholder groups. For example, not all stakeholders will have engaged with Network Rail on scorecards. We expect the consultant to produce a reliable routing procedure to ensure that stakeholders are asked the relevant set of questions, and only in respect of business units with whom they have engaged. Finally, proposals should also explain how the consultant will ensure compliance with GDPR requirements, including how the consultant will collect the respondents’ consent for publishing their comments or, conversely, how data will be kept secure and anonymity preserved, if requested by respondents. |
| **2.3 Project Outputs, Deliverables and Contract Management**  |
| From the evidence gathered from stakeholders, the consultant will produce:* + An initial summary of key statistics and emerging findings[[13]](#footnote-13);
	+ A full draft of a report, for comment by ORR;
	+ A final version of the report that addresses ORR’s feedback and comments.

**Contract Management Requirements*** an initial kick off meeting;
* iterations with ORR to discuss design and implementation of the survey;
* weekly updates by e-mail on the response rate when the survey is live;
* if necessary, a meeting to discuss how to boost response rate;
* a meeting to discuss emerging findings; and
* a meeting to discuss ORR feedback on the draft report.

We are happy to work flexibly with the consultant to discuss progress or any emerging issues, as necessary. We expect to work closely with the appointed consultant on designing the sample and questionnaire script, before fieldwork commences, and on increasing the response rate.  |
| **2.4 Project Timescales** |
| We expect the consultant to set out their proposed timescales for the work, but we have set out an indicative timeline below. The consultant’s bids should highlight any expected deviations from this.* Kick-off meeting and commencement w/c 22/02/2021
* Overall plan agreed w/c 15/03/2021
* Stakeholders contacted w/c 22/03/2021
* Survey begins w/c 29/03/2021
* Survey completed 03/05/2021
* Discussion of emerging findings w/c 03/05/2021
* Draft report available w/c 31/05/2021
* Final report available w/c 07/06/2021

We envisage discussing and agreeing the sample and the questionnaire script with the appointed consultant between the kick-off meeting in mid-February, and the beginning of the surveys / interviews in late March. The timescales then envisage roughly 5 weeks for the completion of the fieldwork while we expect to have the survey results available to us by early May 2021 and the final report drafted by early June 2021.If the interviews are confirmed, we will ask the consultant to conduct them after the survey is completed and the results analysed. The timeline above will be accordingly adjusted, in liaison with ORR. Finally, we retain the option to delay the conduction of the survey and delivery of the report, in agreement with the consultant, depending on the status of government restrictions affecting rail travel.  |
| **2.5 Budget and Payment Schedule** |
| The maximum budget is £20,000 (inc. of all expenses, exc. of VAT) The maximum budget for the total optional telephone interviews is £15,000 (inc. of all expenses, exc. of VAT)  Payment of the total fee will be on the delivery and acceptance by ORR of all required 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**:* The bidder must outline a proposed methodology to gather stakeholders’ views on how well they were engaged by Network Rail. This should include: suggestions on the required survey sample; method of surveying and strategies to increase the response rate; suggestions on survey questions (noting that we will work closely with the consultant to draft the questionnaire itself); suggestions on the design of the interviews and plan for conducting them; and a discussion of any necessary assumptions and/or constraints;
* A high-level project plan explaining how the required outputs will be delivered within the required timescales, detailing the resources that will be allocated;
* Any relevant risks, and explain how they would be mitigated to ensure delivery; and
* 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 (CVs to be provided as an annex);
* Project roles and responsibilities;
* Confirmation that you have carried out the necessary employment checks (e.g. right to work in the UK); and
* Some relevant examples of previous work that bidders have carried out (e.g. case studies).

**d) Pricing*** The consultant should propose a fixed fee, inclusive of all expenses, for the online survey and the telephone interviews separately. Specifically, the consultant should propose a different fee for designing and conducting 20, 30 or 40 telephone interviews.
* The proposed fees 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.
* The consultant should use this template to demonstrate how they have priced their bid:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Name of consultant | Grade | Role  | Day rate | Number of days | Total cost (ex VAT) |
|  |  |  |  |  |  |
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**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:* 1. Explain the methodology the consultant will use to implement the stakeholder survey and to maximise response rate, at the level of or above the minimum response rate requirement of 30%;
	2. Explain the methodology the consultant would use to design and conduct the telephone interviews;
	3. Explain how the consultant will develop and produce their report; and
	4. Explain how the consultant will engage with external stakeholders.

**Delivery (20%)**The proposal should set out how and when the project requirement will be delivered. In particular, it must:1. 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;
2. Explain how the consultant will ensure that the requirements of this specification are met in terms of quality.

**Experience (25%)**The consultant should set out what experience they have that will be relevant to the project requirements. In particular, the consultant must:1. Provide CVs of the resources who will be delivering the project;
2. Highlight the organisation’s relevant experience for this project, providing examples of similar projects;

**Cost / Value for money (25%)**1. The consultant must provide a **fixed fee** for the delivery of the online survey and the telephone interviews separately (inclusive of all expenses), including details of the day rates that will apply for the lifetime of this project. We will weigh the fixed fee at 25% for evaluation purposes.

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 | 02/02/21 |
| Deadline for the submission of clarification questions | 09/02/21 17:00pm |
| Deadline for submission of proposals | 15/02/21 17:00pm |
| Award contract | 19/02/21 |
| Project Inception Meeting | 22/02/21 |

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 |
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1. See pages 19-20 of Network Rail’s Network Licence, available [here](https://orr.gov.uk/__data/assets/pdf_file/0012/3063/netwrk_licence.pdf). [↑](#footnote-ref-1)
2. See paragraphs 3.23 to 3.39 of our PR18 Final Determination, Overview of approach and decisions, October 2018, available [here](https://orr.gov.uk/__data/assets/pdf_file/0019/39304/pr18-final-determination-overview-and-decisions.pdf). [↑](#footnote-ref-2)
3. The year 1 stakeholder engagement assessment report is available [here](https://www.orr.gov.uk/monitoring-regulation/rail/networks/network-rail/monitoring-performance/stakeholder-engagement). [↑](#footnote-ref-3)
4. Network Rail use scorecards to measure its performance throughout the year across a range of measures such as safety, train performance, and efficiency. It is required to work with its stakeholders to agree the range of measures on its scorecards, as well as the targets for each measure. [↑](#footnote-ref-4)
5. We were helped by a consultancy to design and conduct the survey. The survey report is available [here.](https://www.orr.gov.uk/sites/default/files/2020-08/industry-research-on-the-quality-of-network-rail-stakeholder-engagement.pdf) [↑](#footnote-ref-5)
6. See the definition of “stakeholder” in Network Rail’s Network Licence (p 13), available [here](https://www.orr.gov.uk/sites/default/files/om/netwrk_licence.pdf). [↑](#footnote-ref-6)
7. This list of stakeholder groups may evolve in the future. [↑](#footnote-ref-7)
8. In September 2020, the UK Government put in place Emergency Recovery Measure Agreements (ERMAs) with nine passenger operators with whom it has existing franchise agreements. The ERMAs are intended to mitigate the ongoing financial impacts of the Covid-19 pandemic and allow these operators to continue running services in the medium-term. The UK Government has alternative contractual arrangements with other passenger operators. Furthermore, some operators hold contracts with other national or sub-national funding authorities (e.g. Transport for Wales).See the Government’s [webpage](https://www.gov.uk/government/speeches/rail-update-emergency-recovery-measures-agreements) for more information. [↑](#footnote-ref-8)
9. We will discuss with the consultant which principles should be followed when engaging with stakeholders, including the number and form of reminders that can be sent. [↑](#footnote-ref-9)
10. This list of issues is not exhaustive and may evolve in the future. [↑](#footnote-ref-10)
11. See our year 1 stakeholder engagement assessment [report](https://www.orr.gov.uk/sites/default/files/2020-08/annual-assessment-of-network-rail-stakeholder-engagement-2019-20.pdf). [↑](#footnote-ref-11)
12. In our Delivery Plan Notice (October 2018) we committed to reviewing the effectiveness of Network Rail’s Enhancements Delivery Plan (EDP) at an early stage of CP6.The network licence states a delivery plan “means a plan which... ...is prepared in such format and structure, to such standard and level of detail so as to enable providers of services relating to railways and potential providers to plan their businesses”. The EDP is a public facing document which is owned by Network Rail’s System Operator (SO) with inputs from each of Network Rail’s five Regions. We want to understand if the CP6 EDP is: i) effective in meeting the requirements set out in the network licence and ii) how stakeholders’ access and engage with Network Rail’s planning and delivery of enhancements. [↑](#footnote-ref-12)
13. This will be an important output for ORR. The key statistics and findings of the survey will contribute to shaping our early analysis and conclusions. [↑](#footnote-ref-13)