# Invitation to Tender (ITT) and Statement of Requirement

# Schedule 8 Passenger Scheme Recalibration for CP7- Independent audit

05 December 2022

* + - * + **CPV Code: 79411100**
        + **Tender Reference: ORR/CT/22-54**

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Purpose of the document

The purpose of this document is to invite proposals for the Schedule 8 Recalibration 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

## Introduction to the Office of Rail and Road

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](https://www.orr.gov.uk/).

Small and Medium Enterprises

1. 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.

## Statement of Requirement

### 2.1 Background of the project

The Office of Rail and Road (ORR) is currently carrying out its 2023 Periodic Review of Network Rail (PR23). This will set the outputs and funding for Network Rail for Control Period 7 (CP7), which will run from 1st April 2024 to 31st March 2029.

As part of this process, ORR is reviewing the Schedule 8 regime. Schedule 8 is the industry performance regime, which incentivises Network Rail and train operators for fluctuations in train performance from pre-determined benchmarks and provides financial protection to operators against unplanned disruption. ORR's work on Schedule 8 is part of the 'charges and incentives' pillar of PR23 and is led by ORR's Rail Economics team.

Through the Schedule 8 regime, train operators are held financially neutral to the long-term revenue impact of fluctuations in performance for which they are not directly responsible. Schedule 8 is a benchmarked regime, with payments for performance above and below the benchmark. The regime provides incentives on Network Rail and train operators to limit the delay they cause.

For the Schedule 8 regime to provide appropriate compensation, the regime must be calibrated correctly. The regime should be recalibrated to reflect the impact of performance on revenue (through payment rates) and the relative performance that should be expected from different parts of the network (through performance benchmarks).

* [June 2021 consultation on Schedule 8](https://www.orr.gov.uk/search-consultations/review-schedule-8-train-performance-regime)
* [April 2022 consultation on Schedules 4 and 8](https://www.orr.gov.uk/search-consultations/review-schedule-4-possessions-regime-and-schedule-8-train-performance-regime)
* [October 2022 conclusions on Schedules 4 and 8](https://www.orr.gov.uk/search-consultations/review-schedule-4-possessions-regime-and-schedule-8-train-performance-regime)

The passenger operator Schedule 8 regime is now underway, and we have now appointed a consultancy to carry out the necessary calculations.

Due to time constraints, we have not requested the recalibration consultants to update monitoring point weightings or cancellation minutes. However, there is an opportunity for train operators and Network Rail Regions to propose changes to monitoring point weightings (MPWs) and cancellation minutes.

These parameters are necessary inputs to the recalibration consultants' work. However, if there are no proposed parameter changes, they will remain unchanged in the PR23 recalibration (i.e., the parameters from CP6 will be rolled over).

As well as incorporating monitoring points, MPWs and cancellation minutes, the recalibration consultants will calculate the following parameters:

• Network Rail Benchmarks

• Train Operator Benchmarks

• Network Rail Payment Rates

• Train Operator Payment Rates

• Sustained Poor Performance thresholds

An independent audit of the recalibration consultants’ work completed will inform industry and ORR sign-off of the regime before the start of CP6.

**This invitation to tender is to provide the above-described independent audit of the work of the recalibration consultants that will inform industry and ORR sign-off of the regime before the start of CP7. Given time constraints, this independent audit will happen in parallel with the recalibration consultants' work, with engagement and cooperation from the recalibration consultants. The recalibration consultants will be expected to respond to audit findings to correct errors or omissions or to reflect modelling best practices. This independent audit will be in addition to the internal quality assurance that the recalibration consultants must provide.**

### 2.2 Project Objectives and Scope

The audit should ensure that the stated methodology is appropriately followed in the recalibration work. For example, the methodology established by the recalibration consultants will be documented by the consultants. Therefore, the audit should take this methodology as stated. To ensure a successful audit, the audit consultants are likely to consider the following areas (although we would welcome all bidders to identify other areas of focus for the audit).

With regards to the input data:

* Does the input data flow accurately through the model?
* Have the inputs been used consistently and incorporated appropriately?
* Is any data manipulation used appropriate (e.g., removal of outliers)?

With regards to the models used in the recalibration:

* Do the models used in the recalibration serve their stated purposes – are these models consistent with the indicated methodology?
* Are the formulae used in the models correctly and replicated across models accurately?
* Are the assumptions used within the models valid/appropriate?

The audit consultants should ensure that the recalibrated parameters, listed above, are accurately recalibrated according to the stated methodology. Whilst this assurance will help inform industry and ORR regarding the sign-off process for the Schedule 8 parameters, it is not the responsibility of the audit consultants to ensure that industry and ORR sign-off happens. Ultimately, the official sign-off of these parameters is a decision for ORR.

Firstly, due to time constraints we have excluded from the scope of the project, the update of the monitoring point weightings or cancellation minutes. Nevertheless, there is an opportunity for train operators and Network Rail Regions to propose changes to monitoring point weightings (MPWs) and cancellation minutes.

Secondly, we expect there to be a bespoke recalibration required for MTR Crossrail and those service groups of other operators with which MTR Crossrail’s services interact. The bespoke recalibration is outside the scope of the national recalibration. The successful consultancy will not be expected to audit the bespoke consultants’ calculations but will be required to check successful integration.

In undertaking the independent audit, the successful audit consultants will be provided with all models, methodology notes and final reports, as relevant, from the recalibration consultants. In addition, the Phase 2 Requirements document is provided for reference.

### 2.3 Project Outputs, Deliverables and Contract Management

#### Outputs and Deliverables

The successful bidder will be required to produce an independent audit report for each Schedule 8 parameters calculated by the recalibration consultants.

An interim report should be provided at each stage, where multiple audit stages are required for a parameter (for example, the Network Rail Benchmarks). This will ensure ORR can provide comments before the report is finalised.

We would be content to receive combined audit reports for multiple Schedule 8 parameters, if appropriate (for example, both the Network Rail Benchmarks and the Train Operator Benchmarks will require consideration of the base performance data).

We would welcome bidders setting out their proposed approach to this audit of the Schedule 8 recalibration. Important things to note in considering the approach are that:

* The audit will take place alongside the main recalibration work. This should allow for a collaborative audit, with any issues quickly rectified by the recalibration consultants
* All audit reports should be submitted to ORR. ORR will require these, as well as the Phase 2 methodology documents and results, to be able to sign off the final Schedule 8 parameters for CP7
* ORR sign-off must happen within tightly specified timescales since some Schedule 8 parameters will be required as inputs to other Schedule 8 parameters. For example, the Network Rail Payment Rates are a vital input into the Train Operator Payment Rates.

#### Contract Management Requirements

* The recalibration consultants’ critical point of contact will be the assigned ORR project manager
* ORR would expect to receive from the recalibration consultants weekly progress report emails and to hold weekly or fortnightly update meetings with the consultants. These updates and meetings should discuss the progress of the deliverables and highlight any risks or issues
* We would require a project plan to measure progress and identify when key milestones have been achieved.

### 2.4 Project Timescales

The provisional project timetable is set out in the table below.

|  |  |
| --- | --- |
| **Task** | **Completion date** |
| Audit of Network Rail Payment Rates | Completion in May 2023 |
| Audit of Network Rail Benchmarks   * Adjustments to base performance data * Audit of estimated relationship between AML and the regulatory performance metric * Audit of model converting Network Rail’s performance trajectory into Network Rail Benchmarks | Completion in October 2023 |
| Audit of Train Operator Benchmarks | Completion in October 2023 |
| Audit of Train Operator Payment Rates | Completion in October 2023 |
| Audit of model used to calibrate SPP thresholds | Completion in November 2023 |

### 2.5 Budget and Payment Schedule

The maximum budget for this piece of work is £60,000 (inc. of expenses, exc. of VAT).

Payment Schedule:

* 40% following audit completion of Network rail payment rates in May 2023
* 60% on delivery and acceptance of final audit November 2023

### 2.6 Further project related information for bidders

#### Intellectual Property Rights

ORR will own the Intellectual Property Rights for all project related documentation and artefacts.

#### Transparency requirements

Please note ORR is required to ensure that any new procurement opportunity above £10,000 (excluding VAT) is published on Contracts Finder, unless the ORR is satisfied it is lawful not to. Once a contract has been awarded as a result of a procurement process, ORR is required to publish details of who won the contract, the contract value and indicate whether the winning supplier is a SME or voluntary sector organisation.

#### Confidentiality

All consultants working on the project may be required to sign a confidentiality agreement and abide by the Cabinet Office’s protective marking guidelines, which ORR uses to protectively mark a proportion of its information. In addition, the consultant may be required to sign additional confidentiality agreements as required by external stakeholders.

#### Sub-Contractors

Contractors may use sub-contractors subject to the following:

* + - * + That the Contractor assumes unconditional responsibility for the overall work and its quality;
        + That individual sub-contractors are clearly identified, with fee rates and grades made explicit to the same level of detail as for the members of the lead consulting team.

Internal relationships between the Contractor and its sub-contractors shall be the entire responsibility of the Contractor. Failure to meet deadlines or to deliver work packages by a subcontractor will be attributed by ORR entirely to the Contractor.

#### Conflict of Interest

At the date of submitting the tender and prior to entering into any contract, the tenderer warrants that no conflict of interest exists or is likely to arise in the performance of its obligations under this contract; or

Where any potential, actual or perceived conflicts of interest in respect of this contract exist, tenderers need to outline what mitigation/safeguards would be put in place to mitigate the risk of actual or perceived conflicts arising during the delivery of these services.

The ORR will review the mitigation/safeguards in line with the perceived conflict of interest, to determine what level of risk this poses to them. Therefore, if tenderers cannot or are unwilling to suitably demonstrate that they have suitable safeguards to mitigate any risk then their tender will be deemed non-compliant and may be rejected.

## Tender Response and Evaluation Criteria

### 3.1 The Tender Response

The proposals for this project should include an outline of how bidders will meet the requirement outlined in section (ii) “Statement of Requirement”. The following information should be included:

* 1. **Understanding of customer's requirements**

Demonstrate an understanding of the requirement and overall aims of the project.

* 1. **Approach to customer's requirements**

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

* 1. **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)

* 1. **Pricing**

A fixed fee for the project inclusive of all expense. This should include a breakdown of the personnel who will be involved with the project, along with associated charge rates and anticipated time inputs that can be reconciled to the fixed fee.

* 1. **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 and Delivery (20%)

The proposal should set out the methodology by which the project requirement will be initiated, delivered, and concluded. 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. Demonstrate an understanding of the risks, and project dependencies and explain how they would be mitigated to ensure project delivery;
  3. Explain the resources that will be allocated to delivering the required outcomes/output, and what other resources can be called upon if required.

#### Experience (50%)

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

* 1. Provide CVs of the consultants who will be delivering the project
  2. 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.

| Name of consultant | Grade | Role | Day rate | Number of days | Total cost (ex VAT) |
| --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

Please note that consultancy grades should align with the following definitions:

| Grade | Requirement |
| --- | --- |
| Junior consultant | Demonstrable experience in a wide range of projects in their specialist field. Evidence of client facing experience and support services to wider consultancy projects. |
| Consultant | Notable experience and in-depth knowledge of their specialist field. Evidence of a wide range of consultancy projects and client facing experience. Support work in process and organisational design and leading workshops and events. |
| Senior Consultant | Substantial experience in their specialist field and in a consultancy/training role. Previous experience in project management and working in a wide range of high quality and relevant projects. Familiarity of the issues/problems facing public sector organisations. |
| Principal Consultant | Substantial experience in their specialist field and in a consultancy/training role. Sound knowledge of the public sector and current policy and political issues affecting it. Previous experience in project management on at least three major projects, preferably in the public sector and using the PRINCE2 or equivalent method. |
| Managing Consultant | Substantial experience in their specialist field and in a consultancy role. In depth knowledge of the public sector and of current policy and political issues affecting it. Previous experience in project management on at least 5 major projects, preferably in the public sector and using PRINCE2 or equivalent methods. |
| Director / Partner | Extensive experience in their specialist field, in which they are nationally or internationally renowned as an expert. Extensive experience of leading or directing major, complex and business critical projects; bringing genuine strategic insight. In depth knowledge of the public sector and of current policy and political issues affecting it. |

#### Marking scheme

For the Methodology, Delivery and Experience shall be scored using the following:

|  |  |  |
| --- | --- | --- |
| **Table of Evaluation Methodology and Marking Scheme for Quality Criteria** | | |
| **Score** | **Category** | **Definition (Explanation)** |
| 0 | Unacceptable | Unanswered or totally inadequate response to the requirement. Complete failure to understand/reflect the core issues. Fails to demonstrate an ability to meet the requirement. |
| 1 | Poor | Minimal or poor response to meeting the requirement, with little or no relevance. Limited understanding misses some aspects.  The response addresses few elements of the requirement and contains insufficient/limited detail or explanation to demonstrate how the requirement will be fulfilled. |
| 2 | Fair | Response is mostly relevant, but elements of the response are poor. The response addresses most elements of the requirement but contains limited detail or explanation to demonstrate how some of the requirement will be fulfilled. |
| 3 | Acceptable | Response is relevant and acceptable. The response addresses a broad understanding of the requirement but lacks details on how the requirement will be fulfilled in certain areas. |
| 4 | Good | Response is relevant and good. The response is sufficiently comprehensive to assure and demonstrate a good understanding, also providing much detail on how the requirements will be fulfilled. |
| 5 | Excellent | Excellent response fully addressing the requirement and providing significant additional evidence of how the criterion has been met and how value would be added  The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement and provides details of how the requirement will be met in full. |

For the Price evaluation the following shall apply:

* + - * + Fixed fee
        + The lowest fixed fee will be awarded the maximum price score of 100.
        + All other bidders will get a price score relative to the lowest fee tendered.
        + The calculation we will use to calculate your score is as follows:

Price Score = Lowest Total Fee x 100

Bidder’s Total Fee

Your score will then be multiplied by the weighting we have applied to this aspect of the price evaluation to provide a weighted score for the fee.

## Procurement Procedures

### Tendering Timetable

The timescales for the procurement process are as follows:

| Element | Timescale |
| --- | --- |
| Invitation to tender issued | 05 December 2022 |
| Deadline for the submission of clarification questions | 09 January 2023 at 17:00 hours |
| Deadline for submission of proposals | 16 January 2023 at 10:00hours |
| Shortlisted suppliers notified | 20 January 2023 |
| Interviews and presentations\* | w/c 30 January 2023 |
| Award contract | Mid-February 2023 |
| Project Inception Meeting | 23 February 2023 |

\* Interviews and presentations only if required. Please ensure that the Project Manager and other key consultants who will be delivering this work are available to give presentations in the indicated interview date range

### 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: [Guidelines for writing accessible reports for ORR - Guidance for external suppliers | Office of Rail and Road.](https://www.orr.gov.uk/media/23638)

#### 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.

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.

**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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