



Attachment No 4

Invitation to Tender (ITT) - How to bid guidance, Form of Tender and Confidentiality Declaration

Freight Capacity Procurement - Invitation to Tender

For action: This document includes guidance and rules for submitting a tender, it sets out the indicative timetable for this procurement and contains important information regarding how to submit your tender. It also includes a Form of Tender (Appendix A) and a Confidentiality Declaration (Appendix B) which, when completed, must be submitted with your tender.

Terms used but not defined herein shall have the meaning ascribed to them in the Glossary.

1. Procurement Timetable

1.1 Below is the timetable for the procurement of the Freight Capacity Framework Agreement. Please note that the Authority reserves the right to amend the timetable. The Authority will notify you via the AWARD e-sourcing portal if any amendments are made.

| Date | Activity |
|--|--|
| 25 July (Thursday) | OJEU Notice issued, and receipt confirmed. |
| 12 August (Monday) | Deadline for you submitting clarification questions |
| 16 August (Friday) | The last date by which clarification question responses will be issued by the Authority |
| 28 August at 12:00 (noon) hours BST (Wednesday) | The time and date you must submit your tender by |
| 28 August (Wednesday) | The Authority commences the evaluation of tenders |
| 5 September (Thursday) | The Authority completes the evaluation of tenders |
| 6 September (Friday) | The Authority announces who it intends to award a place on the Framework to |
| 7 September (Saturday) | Standstill period commences |
| 18 September (Wednesday) | The date on which the Authority enters into Freight Capacity Framework Agreements with successful Freight Operators (subject to completion of the mandatory standstill period) |
| 19 September (Thursday) | Potential commencement of the first Mini-Competition (subject to all necessary approvals) (Tentative date) |
| 20 September (Friday) | First Mini-Competition Market Engagement Event (Tentative date) |

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|------------------|--|
| End of September | Freight Operators on the Framework submit tenders in respect of the first Mini-Competition if commenced as set out above (Anticipated plan) |
| Early October | First Mini-Competition evaluation concludes if first Mini-Competition commenced as set out above (Anticipated plan) |
| Early October | Date of award of any Call Off Agreement(s) if first Mini-Competition commenced as set out above (Anticipated plan) |
| 31 October 2019 | The UK is due to exit the European Union |

2. Your tender

2.1 This document explains the rules you need to follow when preparing your tender, tells you how to submit your tender and alerts you to some things to be aware of if you are awarded a place on the Framework. It also gives you some hints and tips to help you submit a successful tender.

2.2 If you do not follow the rules set out below, there is a risk your tender will be rejected.

2.3 The Authority is using the AWARD e-sourcing portal to manage this procurement and to communicate with you. No hard copy documents will be issued and all communications with the Authority (including the submission of your tender and all questions relating to it) will be conducted via the AWARD e-Sourcing Portal. To ensure all communications relating to this procurement are received, you must make sure that the point of contact you nominate in the AWARD e-Sourcing Portal is accurate at all times as the Authority will not be under any obligation to contact any other point of contact apart from the one that you have named in the AWARD e-Sourcing Portal.

3. Completing your tender

3.1 Make sure your tender is completed legibly, in English, that it is signed and dated where required and that all required documents, declarations and certificates are included.

3.2 For the avoidance of doubt, the Form of Tender (Appendix A) and Conflicts of Interest and Confidentiality Declaration (Appendix B) must be completed and submitted with your tender.

3.3 Respond to all of the questions and provide all of the information required in the correct format. Where you want us to consider documents, text, data or diagrams please include these as an attachment and not via a web link.

3.4 Documentation should be in a format capable of being read using Microsoft Word, Microsoft Excel and/or Adobe Acrobat without conversion.

3.5 As part of your tender, you must provide full contact details for the legal entity we would be contracting with including the name, registered address (and any alternative address for accounts etc), contact name and numbers, payment and banking details and email and website addresses.

3.6 You must not alter any of our documents. The Freight Capacity Framework Agreement and the Template Call Off Terms and Conditions and Template Call Off Order Form (Attachments 5, 6 and 7 respectively) must not be amended or supplemented.

4. Submitting your tender

4.1 Don't leave it until the last minute before sending your tender. Check and report via the AWARD e-sourcing portal if you have any difficulties with submitting your response.

4.2 The process for submitting tenders is very tightly controlled to make sure everyone is treated equally. This means that we cannot accept tenders other than those submitted by electronic means via the AWARD e-sourcing portal.

4.3 Your tender must be entered into the AWARD e-sourcing portal. We can only accept tenders that we receive through the AWARD e-sourcing portal.

4.4 If you decide not to submit a tender, please let us know as soon as possible through the AWARD e-sourcing portal. It would be helpful to us to know your reasons but you don't have to tell us if you would prefer not to. Do not transfer these tender documents to anyone else without our prior, written agreement. You must submit your tender before the tender submission deadline.

4.5 The tender return date and time is stated in the documents and as notified via the AWARD e-sourcing portal. Be aware that late tenders will be rejected, unless it can be demonstrated to the satisfaction of the Authority that this was on account of a technical failure of the AWARD e-sourcing portal.

4.6 Your tender must be made by the organisation that will be responsible for providing the services if your tender is successful.

4.7 Upload only those attachments we have asked for or that are relevant to your response to a question, being mindful of the maximum character count stipulated in the question.

4.8 Make sure you answer every question and observe any word or character count limits for specific questions. Note that any text which exceeds the word or character count limit will not be read and will not be scored.

4.9 You must log on to the AWARD e-sourcing portal and access your message inbox for this competition to check for messages. You must regularly check for messages in the AWARD e-sourcing portal throughout the tender process.

4.10 If anything is unclear, or you are unsure how to complete your tender submission, you can raise a question before the clarification question deadline, via the AWARD e-sourcing portal.

4.11 When submitting your tender via the AWARD e-sourcing portal check the tick box if your response is complete, then click “save”. Click “close” to return to the home page.

4.12 On the home page, when you are satisfied that you have uploaded all the required documents and marked all Questions as Complete, click the green “Submit Response” button. There is a “Reopen Response” option available until the submission deadline should you need to make changes before the deadline.

5 After tender submission

5.1 We may require you to clarify aspects of your tender in writing. Failure to respond within the time required, or to provide an adequate response may result in the rejection of your tender and your exclusion from this Framework competition.

5.2 Your tender will remain open for acceptance for a minimum of 60 calendar days from the tender deadline.

5.3 Evaluation will be undertaken in accordance with the “Freight Capacity Framework Evaluation Methodology” (Attachment 11) in the procurement documents

5.4 If we exclude you from the Framework competition for any reason we will tell you and explain why you have been excluded. You will not receive any scoring or further feedback.

6 Questions and clarifications

6.1 All communications in relation to this competition will be via the AWARD e-sourcing portal. Make sure you log on and regularly check for communications.

6.2 You may raise questions or seek clarification regarding any aspect of this procurement at any time prior to the response clarifications deadline (see the procurement timetable above). Questions must be submitted using the online message board forming part of the AWARD e-sourcing portal, and in the format required by such message board.

6.3 The Authority will only answer questions submitted via the AWARD e-sourcing portal.

6.4 If you believe that the question is commercially sensitive, then you must indicate this when submitting the question. The Authority will consider the sensitivity of the question and if it considers the question not to be commercially sensitive it will give you the opportunity to either retract the question without receiving an answer or confirm that the question is not commercially sensitive and that the response may be circulated to all. If the Authority considers a question to be commercially sensitive and that providing a response only to the person raising it would not favour or dis-favour any Bidder nor distort competition, then it may respond only to that person.

6.5 To ensure that all have equal access to information regarding this Freight Capacity Framework Agreement procurement, the Authority will publish all its responses to questions in an anonymised format via the AWARD e-sourcing portal only.

7 Important things to be aware of:

7.1 If we refer to an International, European or British Standard in our specification, you can offer an equivalent provided that it offers equivalent guarantees of safety, suitability and fitness for purpose to the one we specified.

7.2 The expense you incur in preparing this tender is a matter for your own commercial judgement. Be aware that exceptionally we may need to withdraw the tender invitation or re-invite tenders on the same or an alternative basis. It is not the Authority's policy to reimburse tendering costs at any stage.

7.3 We reserve the right not to accept any tender.

8. Awarding a place on the Framework:

8.1 We will let you know, formally, in writing of the intention to award a place on the Framework or not and, as this tender opportunity was originally advertised in the Official Journal of the European Community (OJEU), apply a mandatory minimum 10 day "standstill period" between communicating the award decision to tenderers and awarding a place on the Framework.

8.2 You must sign and return the Freight Capacity Framework Agreement within 2 days of being asked. If you do not sign and return within this time frame, you will not have a place on the Framework.

8.3 Concluding a Freight Capacity Framework Agreement is subject to the provision of due certificates, statements and other means of proof as may be required in the procurement documentation.

9. If you are unhappy with the outcome:

9.1 If you have a complaint about our tender process please let the contracts officer (who sent you these documents) know as soon as possible and they will do their best to resolve it.

9.2 If we cannot resolve things to your satisfaction then please refer your complaint to the Cabinet Office Public Procurement Review service email publicprocurementreview@cabinetoffice.gov.uk or telephone 0345 010 3503.

10. Transparency and disclosure

10.1 We are required to publish details of successful tenders on the Government's "Contracts Finder" website and, also, the Transparency page of the Department for Transport's website to show how public money is being spent and contracts managed. We may also be required to release details under the Freedom of Information Act if requested.

10.2 We will contact you should we be asked to publish any of your information which may be confidential to provide you with an opportunity to discuss reasons for not disclosing.

10.3 All Central Government Departments and their Executive Agencies and Non Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-Government role delivering overall Government policy on public procurement - including ensuring value for money and related aspects of good procurement practice. For these purposes, the Authority may disclose within Government any of the Freight Operator's documentation/information (including any that the Freight Operator considers to be confidential and/or commercially sensitive, such as specific tender information) submitted by the Freight Operator to the Authority during this procurement. The information will not be disclosed outside of Government. Freight Operators taking part in this competition consent to these terms as part of the competition process.

10.4 Do not tell anyone what your tender contains before any Freight Capacity Framework Agreement is awarded. The only exception is when obtaining an insurance quote to include in your tender on condition that you give this information to the insurance broker in strict confidence.

10.5 Do not try to obtain information about anyone else's tender before the date of Freight Capacity Framework Agreement award or discuss with anyone else whether or not they should tender, or about their (or your) tender details. The only exception is where you are considering a joint or team tender and on condition that all Freight Operators involved in the discussions are named in your tender.

10.6 If you decide to join with other suppliers to submit a joint or team tender, be aware that (if successful) the group will need to nominate a lead partner who we can award a Freight Capacity Framework Agreement to. Alternatively the group will need to form themselves into a single legal entity before the Freight Capacity Framework Agreement is awarded and you must provide an undertaking with your tender that the group is prepared to do this.

Appendix A

Form of tender

To the Secretary State for Transport

1. We have read the documents listed below and, subject to and upon the terms and conditions contained in the said documents, we offer to provide the services specified on the basis of the tender submitted by us.
2. We confirm that we accept the Freight Capacity Framework Agreement and the Template Call Off Terms and Conditions and the Template Call Off Order Form.
3. We agree that any other terms or conditions of contract or any reservations which may be printed on any correspondence or document from me either in connection with this tender, or any contract resulting from this tender, shall not be applicable to the Freight Capacity Framework Agreement or any Call Off Agreement.
4. We agree that any contract that may result from this tender shall be subject to English law.
5. We confirm that we have taken account of our legal and statutory obligations, as well as all relevant Government codes and policies (e.g. taxes, environmental protection, employment protection and working conditions) in our tender, where they would be applicable to the supply of the services.
6. We confirm that, if joining with other suppliers to submit a joint or team tender, we are aware that (if successful) the group will need to nominate a lead partner or form themselves into a single legal entity before the Freight Capacity Framework Agreement is awarded and undertake that the group is prepared to do this.
7. We have abided by the requirements set out in the procurement documentation including confidentiality.
8. The tender is valid for 60 days from the tender return date.
9. We agree that the Authority may disclose the Freight Operator's information/documentation (submitted to the Authority during this procurement) more widely within Government for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes.
10. We confirm that all copy material submitted is identical in every respect to the original, regardless of the format or media in which it is submitted and is virus checked and is clear at the time of submission.

Name: _____

Position held: _____

Signature: _____

Date: _____

Appendix B

Confidentiality Declaration

1. All the information that the Authority supplies as part of this procurement shall be treated as confidential information.
2. The Bidder considers that the type of information listed in Table 1 below contained in its response to the procurement is 'confidential information'.
3. The Bidder considers that the type of information listed in Table 2 below contained in its response to the procurement is not confidential information but is 'commercially sensitive' information.
4. The Bidder must complete each Table fully and give full, valid and justifiable reasons for including any information in the Tables below. The Authority cannot accept any broad attempt to class all, or any broad categories of, information as either 'confidential information' or 'commercially sensitive' information and may discard a Bidder's attempts to classify information in this way.
5. The information supplied in Table 2 below shall be used to populate Schedule 8 of the Freight Capacity Framework Agreement subject to paragraphs 4 above and 6 below.
6. Bidders are reminded that notwithstanding the inclusion of any information in Table 1 and/or Table 2 below, the Authority shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with FoIA and/or the EIRs (each as defined in the Freight Capacity Framework Agreement (Attachment 5)).

Table 1: Confidential Information:

| Information considered confidential information | Reason for FoIA exemption (include paragraph reference) | Period exemption is sought (months) |
|---|---|-------------------------------------|
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Table 2: Commercially sensitive information:

| Information considered commercially sensitive | Reason for FoIA exemption (include paragraph reference) | Period exemption is sought (months) |
|---|--|-------------------------------------|
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An authorised signatory, in his/her own name, on behalf of the Bidder must sign a copy of this form.

I hereby declare that I am authorised by the under mentioned Bidder to supply the information given above, and that at the date of signing, the information given is a true and accurate record.

To the extent that you are bidding on behalf of a group or you intend to use sub-contractors, every organisation that is being relied on must complete and submit a separate declaration.

| | |
|---------------------------------------|--|
| Organisation's name: | |
| Signatory's name: | |
| Signed: | |
| In the capacity of (position): | |
| Date: | |