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Tender

## **Framework for the provision of legal services in support of ScotRail's New Trains Procurement Programme**

ScotRail Trains Limited

F05: Contract notice – utilities

Notice identifier: 2022/S 000-021594

Procurement identifier (OCID): ocids-h6vhtk-035968

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### **Section I: Contracting entity**

#### **I.1) Name and addresses**

ScotRail Trains Limited

50 Waterloo Street

Glasgow

G2 6HQ

#### **Contact**

Lisa McWilliam

#### **Email**

[lisa.mcwilliam@scotrail.co.uk](mailto:lisa.mcwilliam@scotrail.co.uk)

#### **Country**

United Kingdom

#### **NUTS code**

UKM - Scotland

**Internet address(es)**

Main address

<https://www.scotrail.co.uk/>

Buyer's address

[https://www.publiccontractsscotland.gov.uk/search/Search\\_AuthProfile.aspx?ID=AA30589](https://www.publiccontractsscotland.gov.uk/search/Search_AuthProfile.aspx?ID=AA30589)

**I.2) Information about joint procurement**

The contract is awarded by a central purchasing body

**I.3) Communication**

The procurement documents are available for unrestricted and full direct access, free of charge, at

<https://scotrail.wax-live.com/>

Additional information can be obtained from the above-mentioned address

Tenders or requests to participate must be submitted electronically via

<https://scotrail.wax-live.com/>

Electronic communication requires the use of tools and devices that are not generally available. Unrestricted and full direct access to these tools and devices is possible, free of charge, at

<https://scotrail.wax-live.com/>

**I.6) Main activity**

Railway services

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## **Section II: Object**

### **II.1) Scope of the procurement**

#### **II.1.1) Title**

Framework for the provision of legal services in support of ScotRail's New Trains Procurement Programme

Reference number

SR024

#### **II.1.2) Main CPV code**

- 79100000 - Legal services

#### **II.1.3) Type of contract**

Services

#### **II.1.4) Short description**

ScotRail Trains (SRT) plans to replace 65% of its train fleet (around 675 carriages) in the period 2027 to 2035. Nine of the eleven sub fleets of trains currently operated will be replaced as leases expire and it becomes uneconomical to life extend trains for continued operation. As part of this programme SRT will decarbonise our entire train fleet helping Scottish Government deliver a key milestone in transitioning Scotland to a net zero economy. All existing diesel trains will be withdrawn and replaced with new trains powered by overhead electric wires, batteries or hydrogen. As well as eliminating carbon emissions from passenger rail services in Scotland, this will transform our customer offer improving journey comfort, accessibility and reliability. We will reduce operating costs and improve the consistency of offer to customers by consolidating the number of different sub fleets we operate from the existing eleven to, ideally, five.

This transformation will be delivered through three procurement competitions:

- Phase 1 2022-23 - we will procure a new fleet of suburban trains which will enter passenger service between 2027 and 2030. These trains will connect local communities with Edinburgh, Glasgow, Perth, Dundee and Aberdeen.
- Phase 2 2024-25 (indicative) we will procure a new fleet of trains for our rural routes.
- Phase 3 2025-26 (indicative) we will procure a new fleet of intercity trains to connect the central belt with Aberdeen and Inverness.

SRT require legal advice services to support us in running efficient and compliant procurement competitions which deliver trains which meet our customer, technical and operational requirements whilst providing value for money for the taxpayer. Value for money extends beyond the capital and operating cost of the new trains to include the economic and societal benefits which can be delivered for local communities and businesses through such significant investment from Scottish Government. Ensuring the new trains are constructed in a manner which minimises the impact on the environment will also be a key factor in delivering a successful sustainable procurement.

The first phase of the new trains programme will be to procure a new fleet of suburban electric and battery electric multiple units (EMU and BEMU). Including options, the suburban procurement is envisaged to cover around 120 units comprising around 550 vehicles. We envisage the minimum core order being 64 units and 295 vehicles.

The scope of the procurement will also include Maintenance services – tenderers will be required to submit options for both a Technical Services Agreement and Technical Support and Spares Supply Agreement and a decision on the route which provides best overall value for money will be taken prior to contract award.

Upgrades will be required to maintenance depot and servicing and stabling facilities. These are likely to be delivered by our partners in Network Rail, but we will investigate during the procurement if there is benefit in works being delivered by the train Manufacturer and Maintainer.

A separate procurement is anticipated be held in parallel with that of the trains to identify a suitable financier.

Following contract awards on the suburban trains procurement, it is envisaged that the team will move onto developing and delivering procurements for the rural and intercity fleets.

The legal advisors will be required to provide ad hoc contract management and legal support to the SRT project team managing the design, manufacture, testing, commissioning and approvals process of the new trains contracts.

SRT is acting to deliver the procurement on behalf of Scottish Rail Holdings (SRH) who are a public sector company, owned and controlled by the Scottish Government. SRH report to Transport Scotland (TS) who are the national transport agency for Scotland, responsible for delivering the Scottish Government's vision for transport.

#### **II.1.6) Information about lots**

This contract is divided into lots: No

## **II.2) Description**

### **II.2.2) Additional CPV code(s)**

- 79100000 - Legal services

### **II.2.3) Place of performance**

NUTS codes

- UKM - Scotland

Main site or place of performance

Glasgow, Scotland

### **II.2.4) Description of the procurement**

ScotRail Trains are seeking to contract with a legal services provider to provide ad hoc contract management and legal support to the SRT project team managing the design, manufacture, testing, commissioning and approvals process of the new trains contracts.

This support will include (but not be limited to) the creation of model contracts such as Rolling Stock Lease Agreement (lease), Manufacture & Supply Agreement (MSA), Technical Support and Spares Supply Agreement (TSSSA), Train Services Agreement (TSA), financing Lease – this list is not meant to be exhaustive.

ScotRail will also require guidance on procurement regulations at each stage of the procurement activity (PQQ/SPD, ITT, BAFO etc) to ensure compliance with the Utilities Contracts (Scotland) Regulations 2016.

SRT is acting to deliver the procurement on behalf of Scottish Rail Holdings (SRH) who are a public sector company, owned and controlled by the Scottish Government. SRH report to Transport Scotland (TS) who are the national transport agency for Scotland, responsible for delivering the Scottish Government's vision for transport. As such it will be a requirement of the contract that all entities within the Scottish Rail Holdings Group have access to these services.

### **II.2.5) Award criteria**

Quality criterion - Name: Sector and specialist area knowledge / Weighting: 30

Quality criterion - Name: Proposed team / Weighting: 25

Quality criterion - Name: Suitability of approach / Weighting: 20

Quality criterion - Name: Added Value / Weighting: 5

Price - Weighting: 20

**II.2.7) Duration of the contract, framework agreement or dynamic purchasing system**

Start date

10 October 2022

End date

31 March 2027

This contract is subject to renewal

Yes

Description of renewals

Option to extend contract up to an additional 36 months.

**II.2.9) Information about the limits on the number of candidates to be invited**

Envisaged minimum number: 2

Objective criteria for choosing the limited number of candidates:

- Relevant experience & Case Study - Experience in advising on Rolling Stock Procurement of this scale or equivalent.

Relevant experience - Working knowledge of UCR Scotland Regulations 2016 and all other relevant domestic or EU legislation and Scottish Law.

- Relevant experience - Previous experience of regulatory compliance and working with Govt Agencies (Transport Scotland, Department for Transport, Office of Rail Regulators).

- Relevant experience - in developing Model Contracts such as the list below:

- Rolling Stock Lease Agreement (lease)

- Manufacture & Supply Agreement (MSA)

- Technical Support and Spares Supply Agreement (TSSSA)

- Train Services Agreement (TSA)

#### **II.2.10) Information about variants**

Variants will be accepted: Yes

#### **II.2.11) Information about options**

Options: No

#### **II.2.13) Information about European Union Funds**

The procurement is related to a project and/or programme financed by European Union funds: No

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## **Section III. Legal, economic, financial and technical information**

### **III.1) Conditions for participation**

#### **III.1.2) Economic and financial standing**

Selection criteria as stated in the procurement documents

#### **III.1.3) Technical and professional ability**

Selection criteria as stated in the procurement documents

#### **III.1.4) Objective rules and criteria for participation**

List and brief description of rules and criteria

1. Experience in advising on Rolling Stock Procurement of this scale or equivalent.
2. A working knowledge of Utilities Contracts (Scotland) Regulations 2016 and all other relevant domestic or EU legislation and Scottish Law
3. Experience of regulatory compliance and working with Govt Agencies (Transport Scotland, Department for Transport, Office of Rail Regulators)
4. Previous experience in developing Model Contracts such as:
  - Rolling Stock Lease Agreement (lease)
  - Manufacture & Supply Agreement (MSA)
  - Technical Support and Spares Supply Agreement (TSSSA)
  - Train Services Agreement (TSA)

### **III.2) Conditions related to the contract**

#### **III.2.3) Information about staff responsible for the performance of the contract**

Obligation to indicate the names and professional qualifications of the staff assigned to performing the contract



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## **Section IV. Procedure**

### **IV.1) Description**

#### **IV.1.1) Type of procedure**

Negotiated procedure with prior call for competition

#### **IV.1.3) Information about a framework agreement or a dynamic purchasing system**

The procurement involves the establishment of a framework agreement

Framework agreement with several operators

Envisaged maximum number of participants to the framework agreement: 3

#### **IV.1.8) Information about the Government Procurement Agreement (GPA)**

The procurement is covered by the Government Procurement Agreement: Yes

### **IV.2) Administrative information**

#### **IV.2.2) Time limit for receipt of tenders or requests to participate**

Date

2 September 2022

Local time

12:00pm

#### **IV.2.3) Estimated date of dispatch of invitations to tender or to participate to selected candidates**

9 September 2022

#### **IV.2.4) Languages in which tenders or requests to participate may be submitted**

English

#### **IV.2.6) Minimum time frame during which the tenderer must maintain the tender**

Tender must be valid until: 28 October 2022

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## **Section VI. Complementary information**

### **VI.1) Information about recurrence**

This is a recurrent procurement: No

### **VI.2) Information about electronic workflows**

Electronic ordering will be used

Electronic invoicing will be accepted

Electronic payment will be used

### **VI.3) Additional information**

NOTE: To register your interest in this notice and obtain any additional information please visit the Public Contracts Scotland Web Site at

[https://www.publiccontractsscotland.gov.uk/Search/Search\\_Switch.aspx?ID=702069](https://www.publiccontractsscotland.gov.uk/Search/Search_Switch.aspx?ID=702069).

(SC Ref:702069)

### **VI.4) Procedures for review**

#### **VI.4.1) Review body**

SCOTTISH RAIL HOLDINGS LIMITED

Glasgow

Country

United Kingdom