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Tender

London Overground 3 Concession Agreement

Transport for London/Rail for London Limited

F05: Contract notice – utilities

Notice identifier: 2024/S 000-037961

Procurement identifier (OCID): ocds-h6vhtk-03bc14

Published 25 November 2024, 11:02am

Section I: Contracting entity

I.1) Name and addresses

Transport for London/Rail for London Limited

5 Endeavour Square

LONDON

E201JN

Email

TfLRailProcurements@tfl.gov.uk

Country

United Kingdom

Region code

UKI - London

Companies House

05965930

Internet address(es)

Main address

<https://tfl.gov.uk/>

I.3) Communication

Access to the procurement documents is restricted. Further information can be obtained at

<https://service.ariba.com/Supplier.aw/109539051/aw?awh=r&awssk=fx3TUYr9&dard=1&ancdc=1>

Additional information can be obtained from the above-mentioned address

Tenders or requests to participate must be submitted electronically via

<https://service.ariba.com/Supplier.aw/109539051/aw?awh=r&awssk=fx3TUYr9&dard=1&ancdc=1>

I.6) Main activity

Urban railway, tramway, trolleybus or bus services

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

London Overground 3 Concession Agreement

II.1.2) Main CPV code

- 60210000 - Public transport services by railways

II.1.3) Type of contract

Services

II.1.4) Short description

The contract is a new concession agreement for London Overground (LO3). The contract will cover all aspects of train and passenger service operations over the LO3 network.

II.1.6) Information about lots

This contract is divided into lots: No

II.2) Description

II.2.3) Place of performance

NUTS codes

- UKI - London

Main site or place of performance

London and Greater London, over routes operated by the current concessionaire.

II.2.4) Description of the procurement

Established in 2007, London Overground took over the Silverlink metro routes and brought a suburban rail network within the TfL group, such suburban rail network serving London and its environs. TfL has since invested significantly in rebuilding and refurbishing a wide range of stations, as well as expanding services further with the devolution of West Anglia services in 2015 and the extension to Barking Riverside in 2022. London Overground has continued to be a significant success for London with passenger numbers already recovered to pre-pandemic levels, and it is expected to see continued growth throughout the course of the next concession.

RfL is seeking an operator to help achieve its vision for the London Overground 3 concession, which is to further optimise and improve the already high performing and efficient railway. To support this vision, five key objectives for the operation of the London Overground have been identified. These are:

- Ensure customers and staff are safe and secure on the London Overground network every day;
- Deliver fair working conditions, be inclusive, and represent the communities London

Overground serves;

- Collaborate with industry partners to maintain London Overground's high customer satisfaction, while building trust and caring for customers' needs today and in the future;
- Achieve best value for money for TfL by maximising London Overground revenue and controlling costs without compromising quality; and
- Improve environmental and sustainability outcomes across London Overground to support TfL's goal of net zero carbon.

The successful Operator must support these objectives and share RfL's ambitious vision.

II.2.5) Award criteria

Price is not the only award criterion and all criteria are stated only in the procurement documents

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

Duration in months

120

This contract is subject to renewal

No

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

Envisaged number of candidates: 5

Objective criteria for choosing the limited number of candidates:

The selection criteria and process as set out in the SQ.

II.2.10) Information about variants

Variants will be accepted: No

II.2.11) Information about options

Options: Yes

Description of options

The contract is expected to be for an approximate initial period of 8 years with an option for RfL to extend the period by up to approximately twenty four (24) months and a separate option for RfL to extend the period by up to approximately seven (7) months.

II.2.14) Additional information

In order to be eligible to receive the procurement documents, each prospective respondent will be required to agree and enter into a Process Agreement with Rail for London Limited (RfL) in relation to various matters relating to the conduct and confidentiality of the procurement process. The forms of Process Agreement are available for unrestricted and full direct access, free of charge, by contacting Transport for London (TfL)/RfL at the email address set out above.

As soon as reasonably practicable following receipt of a request from a prospective respondent, RfL will send that prospective respondent a copy of the template Process Agreement via email.

The Process Agreement should be executed by the prospective respondent and its or their respective parent(s) in the form provided by TfL/RfL, subject only to such amendments which are consistent with that prospective respondent's proposed bidding structure at the time the Process Agreement is executed.

Executed Process Agreements must be returned by email to the email address set out above.

Potential respondents must note that RfL will not extend the timescales for responding to the Supplier Questionnaire (SQ) because the potential respondent delays in requesting the Process Agreement or delays in returning that Process Agreement (including, but not limited to, if a potential respondent is unwilling to sign the Process Agreement in the form provided by RfL) and accordingly is delayed in receiving the SQ.

Potential respondents are therefore strongly discouraged from seeking to amend the form of Process Agreement and, as noted above, may only propose amendments which are consistent with that prospective respondent's proposed bidding structure at the time the Process Agreement is executed.

This does not mean that a prospective respondent must know its final bidding structure at the time of signing the Process Agreement (albeit RfL expects the structure and any special purpose company to be known and identified when the SQ response is submitted). If a consortium approach is proposed, each member of the consortium (and their respective parent(s)) must be or become party to a Process Agreement. That could be different Process Agreements for each consortium member (and its or their respective parent(s)). Alternatively, new or additional consortium member(s) (and its or their respective parent(s)) may, by way of an accession agreement in a form specified by RfL, become party to an existing Process Agreement. The relevant form of accession agreement is appended to the Process Agreement.

In any event, the prospective respondent's proposed special purpose company (which if being used will become the operator if successful in the procurement process) must accede and become party to the Process Agreement prior to that prospective respondent submitting its SQ response. The relevant form of accession agreement is appended to the Process Agreement.

Once a prospective respondent has returned a fully executed counterpart of the Process Agreement and a counterpart of the Process Agreement has been fully executed for and on behalf of RfL, that prospective respondent will be provided with the procurement documentation, instructions for responding and instructions on how to register on RfL's e-tendering platform, SAP Ariba. Prospective respondents must then complete the registration process on SAP Ariba to be able to participate in the London Overground 3 SQ process.

Once access has been granted to SAP Ariba, the procurement documents relating to the SQ stage of the procurement will also be available in full and without restrictions on the SAP Ariba link provided. Respondents should familiarise themselves with all of the procurement documents made available to them relating to the SQ stage of the procurement process.

If a prospective respondent has any problems accessing SAP Ariba, please contact TfL via the details below:

TfLRailProcurements@tfl.gov.uk

Once access has been granted to SAP Ariba, access to the SQ documentation will be via the SAP Ariba platform following the steps set out at V1.3(n). In addition, once access has been granted to SAP Ariba, unless otherwise expressly requested by RfL all communications must be made via SAP Ariba and not via the email address set out above. Full details on accessing SAP Ariba and the procurement documents more generally can be found in V1.3.

Tenders (including SQ responses) must be sent electronically via the SAP Ariba platform and in accordance with the SQ requirements.

Section III. Legal, economic, financial and technical information

III.1) Conditions for participation

III.1.1) Suitability to pursue the professional activity, including requirements relating to enrolment on professional or trade registers

List and brief description of conditions

Please refer to the SQ.

III.1.2) Economic and financial standing

List and brief description of selection criteria

Selection criteria as stated in the SQ.

III.1.3) Technical and professional ability

List and brief description of selection criteria

Selection criteria as stated in the SQ.

III.1.4) Objective rules and criteria for participation

List and brief description of rules and criteria

Please refer to the SQ.

III.1.6) Deposits and guarantees required

Parent company guarantees may be required. Performance bonds and/or capitalisation of the concession operator (either fixed or contingent) may also be required as an alternative or in addition to parent company guarantees. Successful respondents may also be given the opportunity to propose further arrangements (in addition to parent company guarantees, performance bonds and/or capitalisation of the concession operator) to support their proposals.

III.1.7) Main financing conditions and payment arrangements and/or reference to the relevant provisions governing them

The Operator will be remunerated by a specified fee package of performance incentives,

which may include either or both of performance bonuses for increased performance or deductions for below target performance.

III.1.8) Legal form to be taken by the group of economic operators to whom the contract is to be awarded

No particular legal form is required, but any consortium will be required to form a legal entity prior to the Invitation to Tender stage of this procurement (and that legal entity will be required to become party to and comply with the obligations set out in the Process Agreement). That legal entity will also be required to enter into the concession agreement if successful. RfL will also need to understand the governance arrangements between the parties and how day to day management will be undertaken.

III.2) Conditions related to the contract

III.2.2) Contract performance conditions

As detailed in the procurement documents.

Section IV. Procedure

IV.1) Description

IV.1.1) Type of procedure

Negotiated procedure with prior call for competition

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.2.1) Previous publication concerning this procedure

Notice number: [2023/S 000-009694](#)

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

Date

7 January 2025

Local time

12:00pm

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

Duration in months: 12 (from the date stated for receipt of tender)

Section VI. Complementary information

VI.1) Information about recurrence

This is a recurrent procurement: No

VI.3) Additional information

Respondents should note the following:

(a) This procurement, in spite of the description of procedure at IV.1.1 as a negotiated procedure with prior call for competition, is not a negotiated procedure under the Utilities Contracts Regulations 2016 but is organised as a procurement and conducted in accordance with the requirements of Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road (Regulation 1370) as amended by Regulation (EC) No 1370/2007 (Public Service Obligations in Transport) (Amendment) (EU Exit) Regulations 2020 (the Regulation 1370 Amendment Regulations).

(b) Regulation 1370 and the Regulation 1370 Amendment Regulations were revoked under paragraph 9 of Schedule 3 of The Public Service Obligations in Transport Regulations 2023 (the PSO Regulations). However, regulation 28(2) of the PSO Regulations provides that in relation to any procedure for the award of a public service contract that has commenced before 25 December 2023, Regulation 1370 and the Regulation 1370 Amendment Regulations are to continue to apply as they were in force immediately before 25 December 2023. This includes (at regulation 28(3) of the PSO Regulations) an information notice having been published under Article 7(2) of Regulation 1370 or any form of advertisement seeking offers or expressions of interest having been published.

(c) On 3 April 2023, a notice (2023/S 000-009694) was published in relation to London Overground 3 which is the subject of this notice (in addition to Docklands Light Railway and the Elizabeth Line which formed part of the same notice). This was therefore published prior to the 25 December 2023 date referred to in regulation 28(2) of the PSO Regulations. Accordingly, Regulation 1370 (as amended by the Regulation 1370 Amendment Regulations) apply to this procurement.

(d) This Contract Notice is being issued to make the market aware of the launch of the SQ stage of the London Overground 3 procurement.

(e) The description provided in II.1.4 and the scope described in section II.2.4 represent the current anticipated requirements of RfL for the London Overground 3 concession. RfL reserves the right to amend the description and/or the scope and/or adjust the duration of the contract as a result of emerging requirements.

(f) The duration of the contract stated in section II.2.7 is an estimate based on an initial contract period of 8 years with an extension of up to twenty four (24) months (26 railway reporting periods) and a separate extension for up to approximately seven (7) months (7 railway reporting periods). Any contract let by RfL may contain provisions that the contract may be extended for the specified period and on the terms of the contract.

(g) Interested respondents must complete the SQ which can be obtained via the SAP Ariba portal subject to the interested respondent first executing a Process Agreement with RfL in the prescribed form. Further information on the process of accessing SAP Ariba is included at (n) below. Respondents must note that any expression of interest submitted in response to the Prior Information Notice for these services does not apply to this contract notice and the procedure in I.3 and (n) must be followed in order to access the SQ.

(h) A response to this contract notice does not guarantee that an entity will be invited to tender. The process for selection of bidders to be invited to tender is set out in the SQ and procurement documents.

(i) The award process may be terminated or suspended at any time without cost or liability to RfL, TfL or any other party.

(j) Neither RfL nor TfL binds itself to enter into any contract arising out of the procedures envisaged by this notice. No contractual rights express or implied arise out of this notice or the procedures envisaged by it.

(k) RfL reserves the right to vary the procedure relating to the conduct of the award process and to require further information from respondents.

(l) Potential bidders shall be solely responsible for any costs which they incur as a result of responding to this notice and participating in any aspect of the procurement process described in this contract notice.

(m) The conduct of this procurement is governed by Regulation 1370 (as amended by the Regulation 1370 Amendment Regulations). If TfL decides to award a new concession agreement, it will be awarded in accordance with Article 5(3) of Regulation 1370.

(n) Instructions of accessing SAP Ariba and Procurement Documents. To access the procurement documents on SAP Ariba, prospective respondents shall express their interest in participating in response to this Contract Notice by emailing TfLRailProcurements@tfl.gov.uk. Upon receipt of the request,

RfL will send the Process Agreement to the Respondent via TfLRailProcurements@tfl.gov.uk.

The Respondent shall return an executed Process Agreement to

TfLRailProcurements@tfl.gov.uk.

Upon receipt of the executed Process Agreement, RfL will grant access to Respondents to the following documents via TfLRailProcurements@tfl.gov.uk

- a. Appendix 3 Instructions for Responding.
- b. TfL - Sourcing Event Participation - Guidance for Suppliers v.1.3.

VI.4) Procedures for review

VI.4.1) Review body

The High Court of England and Wales (Royal Courts of Justice on the Strand, London),
United Kingdom

London

Country

United Kingdom