

UK-Glasgow: Railway transport services
OJ S 66/2013 04/04/2013
Contract notice
Services

Directive 2004/18/EC

Section I: Contracting authority

I.1. Name and addresses

Official name: Transport Scotland on behalf of The Scottish Ministers

Postal address: Buchanan House, 58 Port Dundas Road

Town: Glasgow

Postal code: G4 0HF

Country: United Kingdom

Contact person: Commercial Unit

For the attention of: Alastair Richards

E-mail: transportscotlandcommercialunit@scotland.gsi.gov.uk

Internet address(es):

General address of the contracting authority: www.transportscotland.gov.uk

Additional information can be obtained from:

the abovementioned address

Specifications and additional documents (including documents for competitive dialogue and a dynamic purchasing system) can be obtained from:

the abovementioned address

Tenders or requests to participate must be submitted: the abovementioned address

I.2. Type of the contracting authority

Ministry or any other national or federal authority, including their regional or local subdivisions

I.3. Main activity

General public services

I.4. Contract award on behalf of other contracting authorities

The contracting authority is purchasing on behalf of other contracting authorities: no

Section II: Object of the contract

II.1. Description

II.1.1. Title attributed to the contract by the contracting authority

Caledonian Sleeper Rail Franchise.

II.1.2. Type of contract and place of performance or delivery

Services

Service category No 18: Rail transport services

NUTS code UKM Scotland

II.1.3. Information about a framework agreement or a dynamic purchasing system

The notice involves a public contract

II.1.4. Information about framework agreement

II.1.5. Short description of the contract or purchase(s)

Transport Scotland is implementing its procurement strategy for the replacement of the existing ScotRail Passenger Franchise. Under this notice Transport Scotland is seeking to appoint an appropriately experienced and qualified operator to run overnight rail passenger services between Scotland and London (the "Caledonian Sleeper Service").

Expressions of interest are now being sought from the market. Shortlisted potential operators will receive the Invitation to Tender planned to be issued in September 2013. It is anticipated that the successful bidder will be announced in June 2014 with the contract commencing in April 2015.

It is anticipated that the maximum length of the franchise will be 15 years and that there will be a mobilisation period of 9 months prior to the commencement of operations in April 2015.

The Caledonian Sleeper Service currently forms part of the existing ScotRail Franchise. From the expiry of the existing ScotRail Franchise, it is anticipated that the Caledonian Sleeper Service will be delivered under a separate Franchise Agreement. Transport Scotland intends to launch a separate procurement process for continuing the ScotRail Franchise Services later this year.

The Caledonian Sleeper Service will involve the operation of overnight rail passenger services in both directions between London Euston and each of Edinburgh, Glasgow, Inverness, Aberdeen and Fort William. Services will also be required to call at specific intermediate stations between these terminus points within Scotland. It is anticipated that the services will primarily run on the West Coast main line in England.

The current rolling stock used to deliver the existing service is in need of replacement or refurbishment involving significant modernisation to meet passenger and ministerial expectations. Transport Scotland will make a capital investment of between GBP 50 000 000 and GBP 60 000 000 to facilitate the modernisation of rolling stock. As such the franchise operator will be required to manage the delivery of new and/or refurbished rolling stock to bring the service into line with passenger and ministerial expectations.

This capital investment coupled with the launch of a new brand and a reinvigorated approach to marketing is expected to modernise the existing service and lead to an increase in passenger numbers and revenues. The franchise operator will be expected to maximise the transformation of the Caledonian Sleeper Services through the effective approach and deployment of capital funding, innovative marketing and retailing strategies.

The franchise operator will be required to actively promote social, economic and environmental interests in the delivery of the franchise. Contract performance conditions may therefore relate to particular social, economic and environmental considerations.

Further details will be set out in the Invitation to Tender.

II.1.6. CPV code(s)

60200000 Railway transport services, 60210000 Public transport services by railways, 34620000 Rolling stock, 55260000 Sleeping-car services, 34622400 Railway carriages, 34622200 Railway passenger coaches, 80500000 Training services

II.1.7. Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: no

II.1.8. Lots

This contract is divided into lots: no

II.1.9. Information about variants

Variants will be accepted: yes

II.2. Scope of the procurement

II.2.1. Total quantity or scope

The franchise operator will project manage the delivery of rolling stock and station facility modernisation and will work closely with Transport Scotland to ensure that the envisaged service improvements are delivered. This will include: procurement, delivery and introduction of new/refurbished rolling stock; work with Network Rail, the infrastructure provider and the Office of Rail Regulation, to facilitate the introduction of rolling stock and station facility upgrades and any consequential alterations to depot facilities; managing the return of displaced stock to the owning ROSCO; proactively supporting the integration of operations and new infrastructure to deliver an enhanced train service; implementing the delivery, marketing and retail of enhanced passenger services. The franchise operator may also introduce alternative traction where these are likely to deliver cost savings or improve passenger service.

In 2011/2012 the Caledonian Sleeper Service accounted for approximately GBP 20 000 000 of revenue. This total revenue figure does not include the subsidy paid by the Scottish Ministers in respect of the Caledonian Sleeper Services. Total operating costs amounted to approximately GBP 25 000 000 for the Caledonian Sleeper Services. The estimated contract cost is based on the estimated total revenue received in 2011/2012. No adjustment has been made for inflation.

The franchise operator will be required to operate the timetable that is in place at the start of the contract, and to prepare for and implement the changes applicable at key dates throughout the franchise term. The franchise operator will also be expected to negotiate Track Access rights with Network Rail.

The franchise operator will be required to enter into Station Access Agreements with Network Rail and the relevant train operating companies for stations where the Caledonian Sleeper Service will call. The franchise operator will be required to make available enhanced passenger facilities at designated stations.

It is anticipated that the Franchise Agreement will include a profit sharing mechanism. The Franchise Agreement will include a mechanism for profit support and/or rebasing of the subsidy following an initial period of operation.

The franchise operator will be required to provide sufficient traction capability and rolling stock to provide the services. The franchise operator will be required to enter into Depot Access Agreements with the relevant depot operators for light maintenance used to support the Caledonian Sleeper Services.

The Franchise Agreement will be based on the current ScotRail Franchise Agreement updated in light of market developments and to reflect franchise specific requirements set out in the Scottish Ministers' policy statement.

It is anticipated that staff currently employed wholly or mainly in the delivery of the sleeper services will transfer to the franchise operator in terms of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). Further details will be set out in the Invitation to Tender.

It is anticipated that the franchise operator will contribute as employer to a new section of the Railway Pension Scheme be established to cover the Caledonian Sleeper franchise.

Estimated value excluding VAT: 375 000 000,00 GBP

II.2.2. Information about options

Options: no

II.2.3. Information about renewals

This contract is subject to renewal: no

II.3. Duration of the contract or time limit for completion

Duration in months: 189 (from the award of the contract)

Section III: Legal, economic, financial and technical information

III.1. Conditions related to the contract

III.1.1. Deposits and guarantees required

The franchise operator will be required to provide a parent company loan facility (or equivalent form of liquidity) of up to GBP 4 000 000 in support of its obligation under the franchise. The potential provider appointed to operate the franchise should have sufficient financial backing to place a performance bond. The indicative performance bond value for the Caledonian Sleeper Franchise is up to GBP 4 000 000.

III.1.2. Main financing conditions and payment arrangements and/or reference to the relevant provisions governing them

Details to be provided in the contract documents.

III.1.3. Legal form to be taken by the group of economic operators to whom the contract is to be awarded

The franchise operator will be required to form a special purpose vehicle.

III.1.4. Contract performance conditions

The performance of the contract is subject to particular conditions: no

III.2. Conditions for participation

III.2.1. Suitability to pursue the professional activity, including requirements relating to enrolment on professional or trade registers

List and brief description of conditions: The franchise operator must be capable of obtaining operator licences for passenger rail services within the UK issued by the Office of Rail Regulation.

III.2.2. Economic and financial ability

List and brief description of conditions: The information and formalities necessary to assess whether a potential provider qualifies to receive an Invitation to Tender will be contained in the Pre- Qualification Questionnaire and associated documents.

III.2.3. Technical and professional ability

List and brief description of conditions:

The information and formalities necessary to assess whether a potential provider qualifies to receive an Invitation to Tender will be contained in the Pre- Qualification Questionnaire and associated documents.

III.2.4. Information about reserved contracts

III.3. Conditions specific to services contracts

III.3.1. Information about a particular profession

Execution of the service is reserved to a particular profession: no

III.3.2. 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: no

Section IV: Procedure

IV.1. Type of procedure

IV.1.1. Type of procedure

Negotiated

Some candidates have already been selected (if appropriate under certain types of negotiated procedures) no

IV.1.2. Information about the limits on the number of candidates to be invited

Envisaged minimum number 3: and Maximum number 5

Objective criteria for choosing the limited number of candidates: Transport Scotland anticipates issuing an Invitation to Tender to the top four ranked potential operators assessed in accordance with the criteria set out in the Pre-Qualification Questionnaire and associated documents.

IV.1.3. Information about reduction of the number of solutions or tenders during negotiation or dialogue

Recourse to staged procedure to gradually reduce the number of solutions to be discussed or tenders to be negotiated yes

IV.2. Award criteria

IV.2.1. Award criteria

The most economically advantageous tender in terms of Price is not the only award criterion and all criteria are stated only in the procurement documents

IV.2.2. Information about electronic auction

An electronic auction will be used: no

IV.3. Administrative information

IV.3.1. File reference number attributed by the contracting authority

TS/RD/SER/2013/02

IV.3.2. Previous publication concerning this procedure

Prior information notice

Notice number in the OJ S: [2012/S 241-396563](#) of 14.12.2012

IV.3.3. Conditions for obtaining specifications and additional documents or descriptive document

Time limit for receipt of requests for documents or for accessing documents: 15.5.2013 - 12:00
Payable documents: no

IV.3.4. Time limit for receipt of tenders or requests to participate

22.5.2013 - 12:00

IV.3.5. Estimated date of dispatch of invitations to tender or to participate to selected candidates

27.9.2013

IV.3.6. Languages in which tenders or requests to participate may be submitted

English.

IV.3.7. Minimum time frame during which the tenderer must maintain the tender

IV.3.8. Conditions for opening of tenders

Section VI: Complementary information

VI.1. Information about recurrence

This is a recurrent procurement: no

VI.2. Information about European Union funds

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

VI.3. Additional information

The franchise procurement process is being undertaken in pursuance of the Railways Act 1993 (as amended). Bidders' attention is drawn to the legal powers and duties of the Scottish Ministers set out in the Railways Act 1993 (as amended), including the provisions in section 25 that preclude a public sector operator from being a franchisee under the Act.

The Franchise Agreement will be either a Part B Services Contract or a Services Concession Contract and is out with the full scope of the Public Contracts (Scotland) Regulations 2012. Transport Scotland has elected to treat the Franchise Agreement as a Part B Services Contract for the purposes of the procurement. Transport Scotland is therefore voluntarily utilising an OJEU Notice. The process by which the procurement will operate will be set out as appropriate in the Pre-Qualification documentation and the Invitation to Tender, and will be compatible with any applicable EU law.

Transport Scotland will require to confirm that the subsidy granted to cover the costs incurred in discharging the obligations under the franchise agreement has been calculated in a way that prevents over-compensation in accordance with Regulation (EC) 1370/2007.

Transport Scotland expressly reserve the right (i) not to award any contract as a result of the procurement process commenced by publication of this notice; and (ii) to make whatever changes it may see fit to the content and structure of the tendering competition and the contracts; and in no circumstances will Transport Scotland be liable for any costs incurred by the bidders.

The Pre- Qualification Questionnaire and associated documents are available on request by e-mail from the contact point identified at Section 1 above

VI.4. Procedures for review

VI.4.1. Review body

VI.4.2. Review procedure

Precise information on deadline(s) for review procedures: Transport Scotland will incorporate a standstill period at the point that information on the award of the contract is communicated to tenderers. That notification will provide full information on the award decision. The standstill period, which will be for a minimum of 10 calendar days, provides time for unsuccessful tenderers to challenge the award decision before the contract is entered into. An economic operator that suffers, or risks suffering, loss or damage may bring proceedings in the Sheriff Court or the Court of Session.

VI.4.3. Service from which information about the review procedure may be obtained

VI.5. Date of dispatch of this notice

2.4.2013