

**United Kingdom-Glasgow: Railway transport services**

OJ S 132/2013 10/07/2013

Contract notice

Services

**Directive 2004/18/EC****Section I: Contracting authority**

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**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

For the attention of: Sarah Aitken

E-mail: [transportscotlandcommercialunit@scotland.gsi.gov.uk](mailto:transportscotlandcommercialunit@scotland.gsi.gov.uk)**Internet address(es):**General address of the contracting authority: [www.transportscotland.gov.uk](http://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**

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**II.1. Description****II.1.1. Title attributed to the contract by the contracting authority**

ScotRail Franchise Replacement

**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 operate the ScotRail Passenger Services Franchise (the "ScotRail Services").

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

It is anticipated that the maximum length of the franchise will be 10 years (subject to the exercise of a discretionary option to extend for up to 26 reporting periods). There will be an appropriate mobilisation period prior to the commencement of operations in April 2015.

The existing ScotRail Franchise currently includes the provision of the Caledonian Sleeper Services. 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 is engaged in a separate procurement process for the Caledonian Sleeper Service.

The ScotRail Franchise will involve the operation of intercity services between Glasgow, Edinburgh, Inverness, Aberdeen, Perth, Dundee and Stirling together with a number of commuter, tourist and sub-urban routes.

The franchise operator will also be required to manage the delivery of the EGIP electrification programme and the procurement and delivery of the EGIP rolling stock.

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, 34622200 Railway passenger coaches, 34622400 Railway carriages, 45234112 Railway depot construction work, 80530000 Vocational 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: no

## **II.2. Scope of the procurement**

### **II.2.1. Total quantity or scope**

In 2011/12 the current ScotRail franchise received total revenue of GBP 614 000 000. This total revenue figure includes a subsidy payment made by the Scottish Ministers of GBP 298 000 000. Total operating costs (including fixed track access charges) amounted to approximately GBP 589 000 000 for the ScotRail Services. The estimated contract value is based on the estimated total revenue received in 2011/2012. No adjustment has been made for inflation. Unlike the current franchise, the new franchise is not intended to incorporate the Caledonian Sleeper Services (which is being procured separately). The total revenue figure above excludes revenue in respect of the Caledonian Sleeper Services, however the subsidy

payment figure has not been adjusted and includes payments in respect of the Caledonian Sleeper Services.

The franchise operator will be required to procure and introduce new(or equivalent) rolling stock to complement the delivery of the EGIP infrastructure enhancements and will work closely with Transport Scotland to ensure that the envisaged services are delivered. This will include: procurement, delivery and introduction of new(or equivalent) rolling stock; working with Network Rail, the infrastructure provider, and the Office of Rail Regulation to facilitate the introduction of the rolling stock 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 will be required to deliver Wi-Fi accessibility across the network and smart ticketing systems across Scotland during the franchise term.

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 ScotRail Service will call. The franchise operator will be required to make available enhanced passenger facilities at designated stations.

The franchise operator will be required to provide sufficient traction capability and rolling stock to provide the ScotRail 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 ScotRail Services.

The franchise operator will be required to work with the infrastructure provider to facilitate the introduction of major network upgrades. The franchise operator will also be encouraged to explore opportunities for forming an alliance or similar alternative arrangements with the infrastructure provider and to consider the extent to which resultant efficiencies can be captured in their bid.

Although Transport Scotland is undertaking a separate procurement process for the Caledonian Sleeper Service, a contract award will only be made under that process if Transport Scotland is satisfied that the procurement identifies a value for money solution which meets Transport Scotland's objectives. If an award is not made as a result of the procurement process for the Caledonian Sleeper Service, Transport Scotland may seek to include the Caledonian Sleeper Service as part of the ScotRail franchise. In this event, bidders for the ScotRail franchise will be required to put forward bids which include the the focussed management and development of the Caledonian Sleeper Service and utilise the proposed GBP 50 000 000 - 60 000 000 capital investment to be made by the Scottish Ministers for improvements to the Caledonian Sleeper Service rolling stock.

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 Ministerial Statement on rail delivered in June 2012.

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

Transport Scotland may invite or require bidders to submit Priced Options which will be further detailed in the ITT.

It is anticipated that staff currently employed wholly or mainly in the delivery of the ScotRail 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 continue to contribute as employer to the First ScotRail section of the Railways Pension Scheme.

Estimated value excluding VAT: 6 150 000 000 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: 126 (from the award of the contract)

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

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#### **III.1. Conditions related to the contract**

##### **III.1.1. Deposits and guarantees required**

The potential provider appointed to operate the franchise should have sufficient financial backing to place a performance bond. It is anticipated the performance bond value for the ScotRail Franchise will be between £25 million and £35 million. The final performance bond value will be 5.5% of the total annual operating cost of the franchise.

The potential provider appointed to operate the franchise should also have sufficient financial backing to place a season ticket bond. It is anticipated the season ticket bond value for the ScotRail Franchise will be between £5 million and £6 million.

The potential provider appointed to operate the franchise will be required to have a covenanted liquidity ratio for the Franchise duration. The franchise operator will be required to provide a parent company loan facility (or equivalent form of liquidity) in support of its obligation under the franchise. The value of the parent company loan facility (or equivalent form of liquidity) will be determined in accordance with the criteria set out in the Invitation to Tender.

The potential provider appointed to operate the franchise may also be required to put in place an advance payment bond where a capital investment is made available through the ScotRail franchise.

##### **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**

#### **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**

#### **III.3.2. Information about staff responsible for the performance of the contract**

## **Section IV: Procedure**

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### **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/2013/04

**IV.3.2. Previous publication concerning this procedure**

**Prior information notice**

Notice number in the OJ S: [2012/S 241-396562](#) 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: 9.8.2013

Payable documents: no

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

23.8.2013 - 12:00

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

24.1.2014

**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**

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**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 but would not preclude a not-for-dividend operation.

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.

#### **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**

5.7.2013