

# Qualification System Briefing Document

## Application for Admission to Qualification System and Request for Proposal for First Round of Contracts

**Ref: ENQEIR583**

### DS3 System Services – Volume Uncapped Phase 1

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| <b>Issue Date of Call for Competition</b>                                     | <b>12<sup>th</sup> December 2017</b>                        |
| <b>Closing Date for Receipt of Clarification Requests relating to Phase 1</b> | <b>12.00 hrs Irish Time on 8<sup>th</sup> January 2018</b>  |
| <b>Closing Date for Return of Responses for Phase 1</b>                       | <b>12.00 hrs Irish Time on 8<sup>th</sup> February 2018</b> |

**Buyer: Sinead Connolly**

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# PART 1 – INTRODUCTION AND REQUIREMENTS

## 1. Introduction and Tender Requirements

### 1.1 Overview

In this procurement process, DS3 System Services are being procured in 28 lots (14 for EirGrid and 14 for SONI). The procurement process involves:

- (a) The establishment of a Qualification System in accordance with Directive 2014/25/EU.
- (b) Due to the nature of the requirements all Tenderers who are successful will be considered for the award of contracts, subject to their successful completion of a Response and achieving the minimum requirements for the qualification and award criteria.

The Qualification System is of indefinite duration. However, in order to be considered for the Phase 1 Contracts, Tenderers must complete and return all documentation relating to their Response by the stated closing date. All companies submitting Responses will be informed at the earliest opportunity of the status of their Response.

The procurement process is part of a structured process to aid EirGrid plc (“**EirGrid**”) and SONI Limited (“**SONI**”) in the selection of companies for inclusion on the Qualification System for the provision of DS3 System Services and the award of contracts subject to approval of the Regulatory Authorities in Ireland and Northern Ireland respectively.

A separate Contract is being put in place for both EirGrid (as Contracting Entity for the Contracts applicable to Ireland) and SONI (as Contracting Entity for the Contracts applicable to Northern Ireland).

This procurement process is being run by EirGrid on behalf of both of the Contracting Entities for the award of their respective Contracts.

This tender process, its documentation and all supporting documents contain detailed information required to be completed by all interested parties in accordance with the rules of the competition as set out.

Evaluation of Responses may include subsequent clarifications, negotiations, meetings, presentations and reference site visits / calls.

Part 1 and Part 2 of this document should be read in conjunction with Part 3 – Instructions to Tenderers.

## 1.2 Definitions

The following specific terms are defined for use throughout this document (other terms may be separately defined within the text of the document):

**Contracting Entities** – EirGrid plc & SONI Limited are referred to as the Contracting Entities for the purposes of contractual matters, as defined in Directive 2014/25/EU. Where applicable and in terms of managing the procurement process reference is to EirGrid rather than Contracting Entities as EirGrid plc shall manage the procurement process on behalf of EirGrid and SONI.

**Volume Uncapped Procurement Process** – refers to procurement which does not volume limit any of the 14 DS3 System Services being procured and to which regulated tariffs will apply, which is the subject of this procurement process.

**Volume Capped Procurement Process** – refers to procurement for which an upper limit will be applied to the volume of relevant DS3 System Services being procured and for which prospective service providers will offer a competitive price as part of their Response. Volume Capped procurement will apply for a subset of the 14 DS3 System Services. Please note that volume capped services will be procured as part of a separate procurement process which will be initiated in early 2018.

**Tenderer** – refers to all those who complete the documentation as part of this procurement process, comprising the qualification and award stage documentation.

**Qualification System** – refers to the system that will be put in place to enable interested parties to submit a Response and subsequently qualify for award of Contract for provision of DS3 System Services.

**Gate Process** – refers to the period subsequent to the initial contract round whereby Tenderers may apply for a place on the Qualification System at any time. However, the award of contracts is anticipated to occur at six monthly intervals, however the precise intervals will be at the discretion of the Contracting Entities.

**Regulatory Arrangements** – means the DS3 System Services procurement arrangements, as referenced in the SEM Committee DS3 System Services Future Programme Approach Information paper (SEM-17-017),<sup>1</sup> replacing the DS3 System Services Interim Arrangements.

**Response** – means all documents submitted by the Tenderer in response to this procurement process and includes the Tenderer's response to the qualification and award criteria set out in this document.

**Tender Pack** – means the entire suite of documents published with the announcement of this Qualification System including the following:

- Qualification System Briefing Document
- DS3 System Services Agreement - EirGrid
- DS3 System Services Agreement - SONI
- DS3 System Services Agreement - SONI (intermediary version)
- Technical Questionnaire
- Clarification Template

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<sup>1</sup> SEM Committee DS3 System Services Future Programme Approach Information Paper:  
<https://www.semcommittee.com/sites/semcommittee.com/files/media-files/SEM-17-017%20DS3%20System%20Services%20Future%20Approach%20Information%20Paper.pdf>

- Protocol Document
- DS3 System Services Proven Technologies List

### 1.3 Procedure Applicable to Award of Contract

The procurement of these contracts is being carried out in accordance with the rules of a Qualification System **with** a call for competition, employing the Negotiated Procedure as the standard procedure for the award of contracts, as set out in Council Directive 2014/25/EU, transposed into Irish law by the European Union Award of Contracts by Utility Undertakings Regulations 2016 (S.I. 286 of 2016) (the “**Regulations**”).

The Contracting Entities reserve the right to award contracts on the basis of the original Response or to enter into negotiations with one, some or all of the Tenderers regarding the terms of their Responses. However, any such negotiations will not deviate materially from the original tender requirements.

All negotiations will be conducted with due regard to the principles of equal treatment and transparency. The Contracting Entities reserve the right to verify any of the information submitted at any stage of the award procedure prior to any formal award.

EirGrid may abandon or cancel the tender process at any time prior to entering into a contract and reserves the right to reject, in whole or in part, any or all tenders received. EirGrid will not accept liability for any costs incurred by Tenderers.

This procurement procedure does not constitute an offer to enter into a contract and neither the document itself nor any of the information set out therein should be regarded as a commitment or representation on behalf of the Contracting Entities or any other person to enter into a contractual arrangement.

Tenderers are prohibited from disclosing any information relating to this procurement procedure or obtained on foot thereof to any person except as permitted by the Contracting Entities and are further prohibited from any form of collusion or attempt to unduly influence the evaluation process.

Any breach of confidentiality or form of collusion shall entitle EirGrid to disqualify a Tenderer from the competition without notice.

### 1.4 Background

Following review by the Regulatory Authorities of the TSOs’ Report on Ensuring a Secure, Reliable and Efficient Power System in July 2011 the TSOs were requested by the SEM Committee to put in place a programme of work to solve the challenges associated with increased levels of penetration of variable non-synchronous renewable generation.

In response the TSOs formally commenced the DS3<sup>2</sup> Programme in September 2011. The overall aim of the [DS3 Programme](#) is to put in place the required changes to system policies, system tools and system performance to meet the challenges of operating the electricity system in a secure manner while achieving the 2020 renewable electricity targets. A key aspect of this

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<sup>2</sup> Delivering a Secure, Sustainable, Electricity System

operational challenge is the increase of System Non- Synchronous Penetration (SNSP) from the 2011 limit of 50%<sup>3</sup> to 75%.

A key work stream to facilitate the planned increase of SNSP is System Services. It is envisaged that the System Services work stream will improve the technical capability of ancillary services by enhancing the diversity of fleet (both generation and demand), the type of service offering to the system and by incentivising services valuable to the system.

The purpose of this procurement procedure is to give effect to the DS3 System Services Regulated Arrangements by putting in place a Qualification System to facilitate award of contracts. The DS3 System Services Regulated Arrangements will replace the existing DS3 System Services interim arrangements. The Regulated Arrangements (and corresponding Agreements for the Regulated Arrangements) for System Services will be effective for a 5-year period (subject to extension in accordance with the terms of the Agreement). The arrangements for 11 of the 14 services will commence on 1<sup>st</sup> May 2018 and the arrangements for the additional three services will commence on 1<sup>st</sup> September 2018. The 14 services are described in the DS3 System Services Agreements. The 11 services to be procured under this tender are set out in Section 1.7 – Scope of Work below.

## **1.5 Procurement Process**

### **1.5.1 Qualification System Overview**

1. The objective of this Qualification System is to qualify Tenderers for the provision of DS3 System Services in Ireland and Northern Ireland.
2. It is anticipated that the Qualification System will be maintained for an indefinite period, which is anticipated at this stage to extend over a period of 5 years from the date of its establishment with the option to extend at the Contracting Entities' discretion and subject to Regulatory Authority approval. However, the Contracting Entities reserve the right to terminate the Qualification System at any time at its absolute discretion. Contracts awarded under the Qualification System will continue for the agreed duration unless terminated under clause 8 of the DS3 System Services Agreement.
3. The Qualification System covers 14 services in total which will be awarded across 14 Lots for EirGrid and 14 Lots for SONI. The first 11 services will be procured as Phase 1 in accordance with this Tender Pack. The remaining three services will be procured in accordance with a separate Call for Competition (Phase 2).
4. Should new services be required, subsequent to Phase 1 and Phase 2, such additional services may be added to this Qualification System via a new Call for Competition published in the Official Journal of the European Union.

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<sup>3</sup> In recent months the maximum SNSP level allowable has been increased to 60%, following the successful conclusion of a 60% SNSP operational trial. It is expected that similar trials will be conducted in the coming years with a view to achieving the overall goal of a maximum 75% SNSP limit by 2020.

5. Tenderers may apply for inclusion on the Qualification System at any time. It is intended that specific contracts will be awarded every six months hereinafter referred to as Gate Dates arising subsequent to Phase 1 and Phase 2. The exact Gate Dates will be at EirGrid's sole discretion and all information will be provided to the market in advance of these Gate Dates, primarily via the EirGrid Group website<sup>4</sup>.
6. For the avoidance of doubt, the award of any contract will not automatically entitle a successful Tenderer to be paid for Availability and the Contracting Entities do not make any guarantee in regard to the volume or value of services to be procured.
7. Admission to the Qualification System is subject to a Tenderer meeting all of the minimum requirements, with award of contracts subject to evaluation against the relevant criteria for award set out in this documentation.
8. Interested parties will be permitted to submit tenders for one, several or all of the Lots.
9. It is envisaged that there will be no limit to the number of Tenderers who can be appointed to the Qualification System. However, it is at the Contracting Entities' absolute discretion to limit the number of successful Tenderers under any given Lot.
10. All Tenderers who submit a compliant Response for a particular Lot or Lots and subsequently sign the Contract for those Lots will be deemed the "successful Tenderers" for those Lots.
11. Drawdown of the System Services in any given trading period by the TSOs will be undertaken (subject to the maximum volumes referred to in section 1.6.6) based upon the economic dispatch of the system while ensuring the secure reliable operation of the system. System Services are drawn down in real time operation to ensure the safety and security of the transmission system. It is the obligation of the TSOs to ensure provision of sufficient services to meet the demands of the power system. These demands include the present and future needs of the power system as well as facilitating public policy objectives including security of supply, efficiency, affordability and sustainability. As set out in clause 4.2.4 future decisions by the SEM Committee on payment rules may affect the drawdown of system services in any given trading period.

System Services will be drawn down under the Contracts in accordance with the above.
12. While it is intended to use the Qualification System for the procurement of requirements falling within its scope during its lifetime, the Contracting Entities reserve the right to conduct a separate competition for the procurement of any requirement.

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<sup>4</sup> <http://www.eirgridgroup.com/how-the-grid-works/ds3-programme/>



### 1.5.2 Gate Process

Following establishment of this Qualification System, the subsequent Gate Process will work as follows:

- EirGrid will issue additional notices on the existence of the Qualification System in the OJEU outlining the requirements and timeframes involved in subsequent contracts.
- New applicants may submit a completed Response for a place on the Qualification System at any time. Any Response not received in advance of a particular gate closing date for specific contracts will be considered in the subsequent Gate Process. The Contracting Entities will review Qualification System Responses received between Gates.
- Existing members of the Qualification System may submit a Response for additional Lots or amend / update their existing Contract. Any amendments to the Qualification System / Terms and Conditions of the Contract, which may be announced in subsequent notices, may apply to these revised Contracts.
- At all times, Responses will be evaluated against the published Qualification and Award Criteria relating to each specific Response.
- All successful Tenderers who formally accept the terms and conditions of contract will be awarded a Contract.
- Award of Contracts will be the subject of Award Notices published in the OJEU, as and when required.

### 1.5.3 Qualification System Phases

#### Phase 1

Phase 1 covers 11 of the 14 services as outlined in this RFP.

There is:

- A separate DS3 System Services Agreement for services in Ireland, which is to be entered into with EirGrid; and
- A separate DS3 System Services Agreement for services in Northern Ireland, which is to be entered into with SONI.

The services are split into a number of Lots for each of the TSOs as follows:

- Lots 1IE – 11IE relate to the System Services required by EirGrid.
- Lots 1NI – 11NI relate to the System Services required by SONI.

It is intended that the start date of each of the Contracts awarded under Phase 1 is 1<sup>st</sup> May 2018.

It is intended that the term of each Contract will be five years, but with an option for each TSO to extend the term of its Contract in respect of any or all of its applicable Lots in certain defined cases for two additional time periods of up to eighteen (18) months each, at the discretion of the

Contracting Entity. This option might apply where, for instance, there is a delay in completing the procurement for any subsequent phases envisaged under the DS3 Programme.

## Phase 2

Phase 2 covers the additional three new services. Details of these services are provided in the DS3 System Services Agreement. Further details of requirements and timeframes for submission will be provided via a subsequent OJEU notice which will be published for each additional Gate Process, in line with the timeframes outlined in Section 1.10 below.

Similar to Phase 1 there will be:

- A separate Contract for services in Ireland, which is to be entered into with EirGrid; and
- A separate Contract for services in Northern Ireland, which is to be entered into with SONI.

The Services will be split into a number of Lots for each of the TSOs as follows:

- Lots 12IE – 14IE relate to the System Services required by EirGrid.
- Lots 12NI – 14NI relate to the System Services required by SONI.

It is intended that the start date of each of the Contracts awarded under Phase 2 is 1<sup>st</sup> September 2018.

It is intended that the term of each Contract for Phase 2 will be four years and eight months, but with an option for each TSO to extend the term of its Contract in respect of any or all of its applicable Lots in certain defined cases for two additional time periods of up to eighteen (18) months each at the discretion of the Contracting Entity. This option might apply where, for instance, there is a delay in completing the procurement for any subsequent phases envisaged under the DS3 Programme.

## 1.6 Scope of Requirements

There are 11 System Services to be procured under this Regulated Arrangements Phase 1 procurement process.

The following table sets out all 11 services. The requirements of each Service are detailed in the DS3 System Services Agreements and in the relevant Grid Codes (see below links) as applicable.

EirGrid Grid Code: <http://www.eirgridgroup.com/site-files/library/EirGrid/GridCodeVersion6.pdf>

SONI Grid Code: <http://www.soni.ltd.uk/media/documents/Operations/Grid-Code/SONI%20Grid%20Code%20Version%20Aug%202015.pdf>

### 1.6.1 Lot Numbers

For the purposes of this procurement process, the Services are categorised in Lots. The names and Lot number for all Services to be procured in Phase 1 and Phase 2 for the Qualification System are outlined below.

### 1.6.2 Lot Numbers for the System Services required by EirGrid Phase 1

| Existing Services |                                       |                  |                               |
|-------------------|---------------------------------------|------------------|-------------------------------|
| <b>POR L1IE</b>   | Primary Operating Reserve             | <b>SIR L8IE</b>  | Synchronous Inertial Response |
| <b>SOR L2IE</b>   | Secondary Operating Reserve           | <b>RM1 L9IE</b>  | Ramping Margin 1 Hour         |
| <b>TOR1 L3IE</b>  | Tertiary 1 Operating Reserve          | <b>RM3 L10IE</b> | Ramping Margin 3 Hour         |
| <b>TOR2 L4IE</b>  | Tertiary 2 Operating Reserve          | <b>RM8 L11IE</b> | Ramping Margin 8 Hour         |
| <b>RRD L5IE</b>   | Replacement Reserve (De-Synchronised) |                  |                               |
| <b>RRS L6IE</b>   | Replacement Reserve (Synchronised)    |                  |                               |
| <b>SSRP L7IE</b>  | Steady State Reactive Power           |                  |                               |

### 1.6.3 Lot Numbers for the System Services required by SONI Phase 1

| Existing Services |                                       |                  |                               |
|-------------------|---------------------------------------|------------------|-------------------------------|
| <b>POR L1NI</b>   | Primary Operating Reserve             | <b>SIR L8NI</b>  | Synchronous Inertial Response |
| <b>SOR L2NI</b>   | Secondary Operating Reserve           | <b>RM1 L9NI</b>  | Ramping Margin 1 Hour         |
| <b>TOR1 L3NI</b>  | Tertiary 1 Operating Reserve          | <b>RM3 L10NI</b> | Ramping Margin 3 Hour         |
| <b>TOR2 L4NI</b>  | Tertiary 2 Operating Reserve          | <b>RM8 L11NI</b> | Ramping Margin 8 Hour         |
| <b>RRD L5NI</b>   | Replacement Reserve (De-Synchronised) |                  |                               |
| <b>RRS L6NI</b>   | Replacement Reserve (Synchronised)    |                  |                               |
| <b>SSRP L7NI</b>  | Steady State Reactive Power           |                  |                               |

### 1.6.4 Lot Numbers for the System Services required by EirGrid Phase 2

These services are not being procured as part of Phase 1 but will be procured under Phase 2 which will be advertised separately. Further information on Phase 2 will be provided when available.

| New Services        |                                       |
|---------------------|---------------------------------------|
| <b>FFR L12IE</b>    | Fast Frequency Response               |
| <b>FPFAPR L13IE</b> | Fast Post-Fault Active Power Recovery |
| <b>DRR L14IE</b>    | Dynamic Reactive Response             |

### 1.6.5 Lot Numbers for the System Services required by SONI Phase 2

| New Services        |                                       |
|---------------------|---------------------------------------|
| <b>FFR L12NI</b>    | Fast Frequency Response               |
| <b>FPFAPR L13NI</b> | Fast Post-Fault Active Power Recovery |
| <b>DRR L14NI</b>    | Dynamic Reactive Response             |

### 1.6.6 Maximum capability volume per Providing Unit

A maximum capability volume of service from each Providing Unit will apply. The following table outlines the maximum capability volume that will be procured under an Agreement, from a single Providing Unit on a per service basis. Where a Providing Unit is capable of providing a volume of service greater than that shown in the table, the capability procured will be capped at the maximum capability volume set out in the table.

| Service                            | Capability Volume       |
|------------------------------------|-------------------------|
| Synchronous Inertial Response      | 120,000MWs <sup>2</sup> |
| Primary Operating Reserve          | 100MW                   |
| Secondary Operating Reserve        | 125MW                   |
| Tertiary 1 Operating Reserve       | 150MW                   |
| Tertiary 2 Operating Reserve       | 150MW                   |
| Ramping Margin 1                   | 400MW                   |
| Ramping Margin 3                   | 500MW                   |
| Ramping Margin 8                   | 500MW                   |
| Steady State Reactive Power        | 400Mvar                 |
| Replacement Reserve Desynchronised | 300MW                   |
| Replacement Reserve Synchronised   | 300MW                   |

**Note the above may be modified or changed during the lifetime of the Qualification System. Any modifications will apply to new contracts and will be communicated ahead of each gate.**

### 1.7 Performance Monitoring

Tenderers are advised that the Contracting Entities will employ a Performance Monitoring system to continually evaluate the performance of the service provider. The performance monitoring will take effect through the use of performance scalars. Censure for poor performance may include, amongst other things:

- Reduced payments;
- Termination of contract.

### 1.8 Bidders' Conference

Interested parties will be afforded the opportunity to engage with the Contracting Entities to gain a full understanding of this Qualification System process and the specific Lot requirements to assist in preparing their Responses. This will be provided via a bidders' conference which shall include a presentation from the EirGrid and SONI team followed by a Q&A session.

The conference will be held on 19<sup>th</sup> December 2017 at 9.30 am in the Ballymascanlon House Hotel, and will last up to 4 hours.

If you wish to attend the event, please use our [online registration form](#).

A question and answer document to include all clarifications raised at the conference will be made available to all interested parties as part of the clarification process outlined in this document.

Please email [DS3@EirGrid.com](mailto:DS3@EirGrid.com) or [DS3@SONI.ltd.uk](mailto:DS3@SONI.ltd.uk) if you have any queries relating to the conference.

Following the conference, interested parties will also have the opportunity to seek further clarification via the clarification process outlined in section 1.11 below

## 1.9 Tender Pack

The tender pack provided includes the following documents:

- Qualification System Briefing Document
- DS3 System Services Agreement - EirGrid
- DS3 System Services Agreement - SONI
- DS3 System Services Agreement - SONI (intermediary version)
- Technical Questionnaire
- Clarification Template
- Protocol Document
- DS3 System Services Proven Technologies List

## 1.10 Timetable

**The timetable in relation to the Qualification System for 11 services – Phase1:**

| Event  | Date   |
|--|--|
| Issue date for Call for Competition for Qualification System | 12 <sup>th</sup> December 2017   |
| Bidders' conference  | 19 <sup>th</sup> December 2017 at 9.30am in the Ballymascanlon House Hotel, Louth                |
| Latest date for receipt of queries                           | No later than 12.00hrs Irish Time on 8 <sup>th</sup> January 2018                                |
| <b>Latest date for receipt of Responses</b>                  | <b>No later than 12.00hrs Irish Time on 8<sup>th</sup> February 2018</b>                         |
| Notification Letters to Tenderers                            | Mid April 2017   |
| Standstill Period  | 14 calendar days from issue of electronic notifications  |
| Contract Conclusion and Commencement of Services             | 1 <sup>st</sup> May 2018   |
| Contract Duration  | 5 years plus option to extend for two additional time periods of up to eighteen (18) months each |

## The timetable in relation to the Qualification System for 3 services – Phase 2:

| Event  | Date   |
|--|--|
| Issue date for Call for Competition              | 30 <sup>th</sup> March 2018  |
| Latest date for receipt of queries               | No later than 12.00hrs Irish Time on 18 <sup>th</sup> April 2018   |
| <b>Latest date for receipt of Responses</b>      | <b>No later than 12.00hrs Irish Time on 18<sup>th</sup> May 2018</b>   |
| Notification Letters to Tenderers                | 2 <sup>nd</sup> August 2018  |
| Standstill Period                                | 14 calendar days from issue of electronic notifications  |
| Contract Conclusion and Commencement of Services | 1 <sup>st</sup> September 2018   |
| Contract Duration                                | End date of 30 <sup>th</sup> April 2023 plus option to extend for two additional time periods of up to eighteen (18) months each |

## The timetable in relation to the Qualification System Gate Process:

Following the initial two Phases of this procurement process any subsequent Qualification System Responses will be assessed and Contracts awarded at six monthly “Gates” (as outlined below).

| Gate No | Anticipated Contract execution date |
|---------|-------------------------------------|
| 1       | March 2019                          |
| 2       | September 2019                      |
| 3       | March 2020                          |
| 4       | September 2020                      |
| 5       | March 2021                          |
| 6       | September 2021                      |
| 7       | March 2022                          |
| 8       | September 2022                      |
| 9       | March 2023                          |

Note: The above timetables are indicative only. Whilst EirGrid will make every effort to maintain these timetables, it reserves the right at its full discretion to amend or extend the timetable as it deems appropriate.

### 1.11 Contact Details for Queries

Tenderers shall ensure that they have all information required for the preparation of their Response and shall satisfy themselves about the correct interpretation of terminology used in the Tender Documents. Tenderers shall also ensure that they are fully conversant with the nature and extent of the obligation to be accepted by them if their Tender is accepted.

Tenderers must fully satisfy themselves as to the nature and requirements of this procurement process. Should a Tenderer become aware of any ambiguity, discrepancy, error or omission in the document(s), it shall immediately notify EirGrid. EirGrid upon receipt of such notification shall notify all Tenderers of its ruling in respect of any such ambiguity, discrepancy, error or

omission. Such ruling shall be issued in writing via post or e-mail and shall form part of the tender documents.

Every effort has been made to ensure this documentation contains all the necessary information for completion of Responses. If, however, clarification on the content of this document is required all queries should be sent in writing as outlined below. Any Responses provided by EirGrid will be made available to all participating Tenderers.

If a Tenderer believes a query/request and/or its Response relates to a confidential or commercially sensitive aspect of its Tender it must clearly mark the query/request as “**confidential**” or “**commercially sensitive**”.

If EirGrid, in its absolute discretion, is satisfied that the query/request and/or its Response should be properly regarded as confidential or commercially sensitive, the nature of the query/request and its Response shall be kept confidential. EirGrid will issue separate bulletin(s) to each Tenderer as required, detailing any Responses to queries which EirGrid considers to be confidential or commercially sensitive.

If EirGrid is of the opinion that it would be inappropriate to answer the query/request on a confidential basis, it will notify the Tenderer and require the Tenderer to either withdraw the query or to raise any objection within 3 Working Days of such notification and state the grounds for its objection.

If the Tenderer does not withdraw the query/request or raise any objection within the specified period, or EirGrid is of the opinion that, notwithstanding the objection of the Tenderer, the query/request is not confidential or commercially sensitive, EirGrid may issue the query/request and its Response to all of the Tenderers, having given prior notice to do so to the Tenderer whose confidential / commercially sensitive information is at issue.

EirGrid reserves the right to discuss aspects of the Tenderer's Response with its advisors and any relevant authorities where EirGrid considers such discussion necessary or appropriate.

Except in so far as may be directed in writing by EirGrid, no agent or servant in its employ has any authority to make any representation or give any explanation to Tenderers as to the meaning of the documents provided in the Tender Pack or to any other matter so as to bind or fetter the discretion of EirGrid. Tenderers shall not communicate with any servant, employee or agent of EirGrid except as to the extent and in the manner provided in this procurement process.

Any questions, queries or requests for further information regarding the Tender Pack should be submitted via **email** to Sinead Connolly at [sinead.connolly@eirgrid.com](mailto:sinead.connolly@eirgrid.com) and [purchasing@eirgrid.com](mailto:purchasing@eirgrid.com) as soon as possible and in any event not later than **the time and date** specified in Section 1.10 – Timetable.

Each query should clearly state the tender reference **ENQEIR583 – DS3 System Services – Volume Uncapped** and the name of Tenderer.

EirGrid may at its absolute discretion (but shall not be obliged to) respond to late queries.

## **1.12 Format of Responses**

Responses should be detailed and focused on the capacity of the Tenderer to fulfil the Scope of Requirements as set out in Section 1.6 and all supporting tender documentation. Tenderers are requested to format their Response in a logical manner with their reply to each of the criteria

clearly identified and each of the points addressed under that specific criterion or referenced to the precise area of the submission document where the reply may be found.

**We request that you do not provide any marketing or advertising material unless it specifically supports your Response to one of the criteria listed and is referenced as such. We reserve the right to exclude any such material from consideration where it has not been identified appropriately as being relevant.**

All Tenderers must provide the required details as per the following forms:

- 1. Details of Tenderer – Form 1**, duly signed
- 2. Qualification Criteria – Form 2**, all templates completed and details provided
- 3. Contract Acceptance Declaration – Form 3**, duly completed
- 4. Technical Questionnaire – Form 4**, all templates completed and details provided as appropriate to Lots being tendered. **This must be provided in Excel.**
- 5. Check List – Form 5** duly completed

**Note:** Tenderers shall provide an outline of the main assumptions made in preparing the proposal using Form 1, Table 1.3 Assumptions.

Responses are split into two constituent parts, namely a qualification section and a tender section, which are to be submitted at the same time.

Tenderers must submit a separate standalone Response (comprising qualification section and a tender section) for each and every Providing Unit.

- If registered in the SEM, to the extent that is required, Providing Units should apply in accordance with how they are registered in the SEM.
- If not registered in the SEM, the Providing Unit is the Unit or collection of Units behind a single connection point.
- In the case of an Aggregator, the Providing Unit is the collection of sites which is controlled by the Aggregator, and the interface with the TSO shall be with the Aggregator.

Tenderers are required to submit, for each Providing Unit, a Response consisting of:

- Part 2 of this RFP, including Forms 1, 2 and 3; and
- Completed Technical Questionnaire sheets for each Lot they are submitting for.



## 2. Qualification and Award Criteria and Evaluation Process

### 2.1 Introduction

In order for a Response to avoid elimination from this competition and to warrant consideration, it must comply with the minimum requirements of the documentation, including all supporting documents.

Responses will be examined initially by reference to the completeness relative to the qualification documentation. Following this initial examination, Responses that are valid and complete will be assessed against award criteria set out below.

Responses will be evaluated in their own right. No unsolicited communications from Tenderers will be entertained during the evaluation period. All communications must be made in accordance with Part 1 Section 1.11.

It should be noted that in addition to evaluation of the Response submitted, the evaluation may necessitate subsequent clarifications, negotiations, meetings, presentations and possibly reference site visits / calls.

In completing their Responses, Tenderers should ensure that they have fully addressed each of the criteria set out below and that complete information has been provided under each heading.

All will be evaluated, on a Lot by Lot and Providing Unit by Providing Unit basis:

- against the pass / fail pre-qualification and technical minimum requirements for the Lot concerned; and
- against the award criteria for compliance of the proposed (tendered) solution with the technical requirements for the Lot concerned.

As a separate tender must be submitted for each Providing Unit, this also means that each tender for each Providing Unit will be evaluated separately.

As the payment rate (tariff) for each System Service will be fixed, tenders will be assessed under the award criteria based upon quality (technical compliance) only.

### 2.2 Payment Terms

The tariff payment rates for each DS3 System Service have been published in euro (€) in the DS3 System Services Tariffs and Scalars SEM Committee Decision [SEM-17-080](#).

In determining the associated sterling rates, the same methodology as was used in 2016/17 for the interim arrangements will be applied. This methodology is consistent with that applied under the Trading and Settlement Code for the calculation of the annual capacity exchange rate i.e. the average of the forwards rates for the forthcoming tariff year as taken over a period of 5 days prior to tariff and payment setting. This exercise will be conducted on an annual basis.

Subject to industry consultation and approval from the Regulatory Authorities, and subject to as may otherwise be provided in the Agreement, the TSO may review and adjust DS3 System Services Payment Rates in the Charging Statement and the values of the Temporal Scarcity Scalars in circumstances including, but not limited to, where:

- (i) the TSO expects the expenditure cap to be breached;

- (ii) the volume which is procured exceeds that which the TSO requires to operate the system at 75% SNSP;
- (iii) the TSO has not procured the volume necessary to maintain stability of the system at 75% SNSP; or
- (iv) unintended consequences of tariff design emerge post DS3 System Services Phase 1 Go-Live or DS3 System Services Phase 2 Go-Live.

Tenderers are referred to the relevant clauses of the DS3 System Services Agreements for details on payment methodology.

## 2.3 Technical Questionnaire

The Technical Questionnaire outlines a set of questions for evaluation purposes (Section A (and B where relevant)) and also a set of questions for information purposes (Section C).

All questions in Section A (and Section B where relevant) will be evaluated on a pass / fail basis in accordance with the Response, data provided, and demonstration of the minimum evidence required.

The Responses to the set of questions in Section C will facilitate the process of contracting and provide key operational information and parameters for payment. While this information is not used in the evaluation process it is mandatory to complete this section of the questionnaire. Tenderers who do not complete these sections in accordance with the instructions may be deemed inadmissible.

For each Lot being applied for, Tenderers are required to complete the technical questionnaire and provide the following detail (where relevant):

- a YES, NO, or N/A Response.
- parameter(s) and/or cross reference(s) to tender submission.
- complete the PQ capability and Reserve Characteristic tables where required.

All information provided by Tenderers in the Technical Questionnaire must be correct and accurate.

Tenderers are referred to the Technical Questionnaire for further instruction on completing same.

## 2.4 Mandatory Technical Requirements

The below is an overview of the key technical requirements which Tenderers must meet in order to be successful for any Lot. Tenderers are referred to the Technical Questionnaire for full details of all requirements specific to each Lot.

- A Tenderer's Providing Unit must be connected to the Ireland/ Northern Ireland Transmission or Distribution System by the 1<sup>st</sup> of May 2018.
- For DSO/DNO connected Providing Units, formal notification from the relevant DSO/DNO confirming appropriate operational protocols are in place is required.

Tenderers will be required to provide this notification by 16<sup>th</sup> March 2018. See Section 1.10 - Timetable for specific submission date.

- Tenderers must be in a position to provide the relevant system service from 1<sup>st</sup> May 2018.
- Evidence-based information is required for each Lot being tendered; Tenderers must either:
  - reference a current contractual arrangement with EirGrid or SONI (DS3 System Services Interim Framework Agreement); or
  - provide a TSO-approved Testing Report (and Wiring Cert where applicable) demonstrating the Providing Unit's capability to provide the service. If a TSO-approved Testing Report cannot be provided by the Tender Submission date, then the Tenderer must provide evidence that a Testing Request has been submitted to the TSO and that the TSO has agreed to a date for testing to take place, which must not be after 2<sup>nd</sup> April 2018
- The minimum capability required is 1MW/ 1Mvar/ 100MWs<sup>2</sup> as applicable to each service.
- For system security reasons, the Providing Unit's technology should be designated as "Proven" for the service on the DS3 System Services Proven Technologies List. The list may be amended at the Contracting Entities' discretion. For technologies not listed the Tenderer must provide evidence to the TSO's satisfaction that the Providing Unit's technology can provide the service.
- Unless stated otherwise, all quantities provided must be at the Connection Point.

## 2.5 Evaluation Process

The award criteria concern the nature of the work to be carried out by the successful tenderer(s) and the manner in which it is to be done.

Subject to meeting the Qualification criteria listed below and contained in the Part 2 documentation, EirGrid intends to evaluate and award a contract to **all compliant** tenderers based on the award criteria listed below.

## 2.6 Qualification Criteria

Responses will be evaluated against the following Qualification Criteria with pass / fail weighting as indicated.

Please refer to Part 2 - Form 2 of this document for further details.

| <b>Qualification Criteria</b>                             | <b>Description</b>  | <b>Weighting %</b> | <b>Minimum requirement</b> |
|---|---|--------------------|----------------------------|
| <b>Exclusionary Criteria Declaration</b>                  | Exclusionary Criteria Declaration must be completed satisfactorily.<br><br>See Part 2 - Form 2.   | <b>Pass/Fail</b>   | <b>Pass</b>                |
| <b>Financial &amp; Economic Standing</b>                  | Tenderers must complete the Self-Declaration of Financial and Economic Capacity<br><br>See Part 2 - Form 2.   | <b>Pass/Fail</b>   | <b>Pass</b>                |
| <b>Health &amp; Safety and Environment and Employment</b> | Tenderers must demonstrate that they comply with the relevant health and safety and environmental and employment legislation.<br><br>See Part 2 - Form 2. | <b>Pass/Fail</b>   | <b>Pass</b>                |

## 2.7 Award Criteria

Following evaluation, Responses that are deemed 'compliant' or achieve a Pass for all of the Qualification Criteria will be evaluated against the following Award Criteria with pass / fail weighting as indicated. Please refer to the Technical Questionnaire document for further details.

Please refer to Part 2 - Forms 3 to 4 of this document for further details.

| Award Criteria              | Description   | Weighting %      | Minimum requirement |
|-----------------------------|---|------------------|---------------------|
| <b>Technical Compliance</b> | <p>Tenderers are required to demonstrate compliance against the requirements set out in the Technical Questionnaire and Scope of Work, for each Lot they are applying for.</p> <p>For Section A and Section B (where relevant) of the Technical Questionnaire:</p> <p>A pass is awarded for every requirement that is met. A fail is allocated for every requirement that is not met.</p> <p>A Tenderer must meet every single requirement (i.e. get a pass for every requirement in Section A (and B where applicable) in the Technical Questionnaire) in order to meet the minimum required score.</p> <p>Note: This involves Tenderers confirming compliance of their proposal with the requirements set out in the Technical Questionnaire and providing satisfactory evidence where required. If it is not, the tender shall be rejected.</p> <p>See attached Technical Questionnaire and Scope of Work.</p> <p>See Part 2 - Form 4.</p> | <b>Pass/Fail</b> | <b>Pass</b>         |
| <b>Legal</b>                | <p>Acceptance of contractual conditions in accordance with Form 3.</p> <p>Tenderers shall complete the Contractual Acceptance Declaration as part of their tender submission. This verifies that Tenderers accept the Terms and Conditions as issued.</p>   | <b>Pass/Fail</b> | <b>Pass</b>         |

## 2.8 Marking Scheme

**Tenderers are required to obtain a Pass for the above criteria for each Lot for which they are submitting. Tenderers who fail to meet the minimum requirement will be excluded from further participation in that Lot.**

Tenderers must clearly and comprehensively demonstrate their ability to deliver the requirements as set out in the Technical Questionnaire.

Tenderers are requested to clearly identify their reply to each question in the Technical Questionnaire and each of the points addressed under that specific question or provide a reference to the precise area of the Response document where the reply may be found.

Marketing material or advertisements will not be evaluated unless they specifically support your Response to one of the questions listed and are referenced as such. Any failure and/or incompleteness in this respect may result in rejection of the tender.

### **3. Award of Contracts**

Award of contract for successful Tenderers will be subject to agreement of the Contract. The current draft of these are included as part of the Tender Pack.

#### **3.1 Amendments to Contracts**

Areas of the Legal Agreement may be subject to amendment and as such have revision clauses for same.

Contracts may be amended in circumstances arising either through the operation of law, statutory requirement or through the intervention of the relevant Regulatory Authority.

Contracts awarded under future gates may have amended terms and conditions due to power system needs and budgetary expenditure.

#### **3.2 Extension to Contracts**

The Contracting Entity reserves the right to extend contracts for two additional time periods of up to eighteen (18) months each should the circumstances dictate the appropriateness of such extensions. Such extensions may be on the basis of the existing contractual terms or amended contractual terms. Likewise, new arrangements with service providers may take the form of a new contract awarded under the relevant Qualification System in place.

## 4. Submission of Responses

The completed Responses shall be enclosed in a sealed envelope bearing a label containing the information below and shall be delivered not later than the **time and date** specified in Section 1.10 Timetable.

**Please allow yourself sufficient time to ensure on time delivery of your Response. EirGrid may be unable to accept any Response which has not been delivered to EirGrid's offices prior to the stated closing time. EirGrid is not liable for any issues relating to courier/delivery agent failure or traffic congestion experienced by Tenderers when attempting to submit Responses.**

Please ensure the following information is clearly written on the external packaging of your Response:

**Tender Reference: ENQEIR583**

**Description: DS3 System Services – Volume Uncapped**

**Closing Date: 12.00pm Irish Time on 8<sup>th</sup> February 2018**

**Deliver To: Sinead Connolly**  
EirGrid plc,  
Block 2 - The Oval,  
160 Shelbourne Road,  
Ballsbridge,  
Dublin 4,  
Ireland.

Tenderers are requested to submit:

**3 X Hardcopy print outs of complete Tender Response**

☐

**And**

**1 USB or CD/DVD containing the following softcopy versions:**

- **1 X PDF version of the complete Tender Response - Part 2 – All Forms** ☐
- **1 X Microsoft Word version of Part 2 Forms 1 - 3** ☐
- **1 X Microsoft Excel version of Part 2 Form 4** ☐

For hard copy Responses, Tenderers are requested to print and package the Response in the logical order in which it should be read by EirGrid. Simple binding is sufficient.



## PART 2 – RESPONSE

**PLEASE COMPLETE AND RETURN ALL OF THE FOLLOWING FORMS**  
(Hand written submissions are not acceptable)

**(Do not return Part 1 or Part 3)**

**ENQEIR583**

**DS3 System Services – Volume Uncapped  
Phase 1**

**Tenderer Name:**

**Providing Unit Name:**

**Tenderers must submit a separate standalone Response (comprising pre-qualification section and award section) for each and every Providing Unit for each Lot they are applying for.**

All Tenderers must complete/provide the following for each Providing Unit they are submitting for:

- The below table outlining the relevant Lots they are applying for.
- Form 1, Form 2, and Form 3.
- A completed Technical Questionnaire.

| <b>EirGrid Lots</b>                           | <b>Submitting<br/>Y/N</b> | <b>SONI Lots</b>                              | <b>Submitting<br/>Y/N</b> |
|---|---------------------------|---|---------------------------|
| Lot 1IE Primary Operating Reserve             |                           | Lot 1NI Primary Operating Reserve             |                           |
| Lot 2IE Secondary Operating Reserve           |                           | Lot 2NI Secondary Operating Reserve           |                           |
| Lot 3IE Tertiary 1 Operating Reserve          |                           | Lot 3NI Tertiary 1 Operating Reserve          |                           |
| Lot 4IE Tertiary 2 Operating Reserve          |                           | Lot 4NI Tertiary 1 Operating Reserve          |                           |
| Lot 5IE Replacement Reserve (De-Synchronised) |                           | Lot 5NI Replacement Reserve (De-Synchronised) |                           |
| Lot 6IE Replacement Reserve (Synchronised)    |                           | Lot 6NI Replacement Reserve (Synchronised)    |                           |
| Lot 7IE Steady State Reactive Power           |                           | Lot 7NI Steady-state Reactive Power           |                           |
| Lot 8IE Steady-state Reactive Power           |                           | Lot 8NI Steady-state Reactive Power           |                           |
| Lot 9IE Ramping Margin 1 Hour                 |                           | Lot 9NI Ramping Margin 1 Hour                 |                           |
| Lot 10IE Ramping Margin 3 Hour                |                           | Lot 10NI Ramping Margin 3 Hour                |                           |
| Lot 11IE Ramping Margin 8 Hour                |                           | Lot 11NI Ramping Margin 8 Hour                |                           |

## FORM 1 - Details of Tenderer

### 1.1 Contact Details for Tenderer

| CONTACT DETAILS  |  |
|--|--|
| Tenderer Name  |  |
| Company Registration Number  |  |
| Contact Name   |  |
| Position   |  |
| Address  |  |
| Telephone  |  |
| Email  |  |
| Validity Period of Tender<br>(Confirm validity period of the tender as twelve months)  |  |
| Legal Status (if any)<br>(Company (Ltd.), Partnership, Sole Trader, etc.)  |  |
| <b>Freedom of Information Act</b>  |  |
| This Tender is<br>Confidential/Commercially<br>Sensitive in its entirety<br><b>OR</b>  |  |
| This Tender is<br>Confidential/Commercially<br>Sensitive in its entirety with the<br>exception of the following parts<br>(Tenderer to list specific parts of tender) |  |

### 1.2 Consortium or Joint Venture

Please answer the following questions if you are applying as part of a consortium or joint-venture and include the names of all relevant companies below:

| Consortium or joint-venture details                      | Y/N | Company Name(s) |
|--|-----|-----------------|
| Is the Tenderer a Consortium?                            |     |                 |
| Is the Tenderer a Joint Venture?                         |     |                 |
| If yes to the above please provide name of lead company? |     |                 |
| Do you propose to use sub-contractors?                   |     |                 |

### 1.3 Assumptions

Tenderers shall provide an outline of the main assumptions made in preparing their proposal.

| Assumption | Effect |
|------------|--------|
|            |        |

### 1.4 Conflicts of Interest

Tenderers shall provide details of any potential Conflicts of Interest in relation to any recommendation or proposal put forward in this tender, or any registerable interest involving the Tenderer and EirGrid employees or their relatives (See Part 3 – Section 15).

| Details of Potential Conflicts of Interest |
|--|
|  |

## FORM 2 - Declarations

### 2.1 General Declaration

**This section must be completed by the Tenderer.**

This Declaration is to be signed by an authorised representative of the Tenderer.

I hereby declare on behalf of the Tenderer making this application, that it is competent to carry out the services described herein and that I am authorised to give this declaration.

I understand that the provision of false or misleading information or the omission of information could result in the exclusion of the Tenderer from the tender process.

I hereby declare that I have used best endeavours to ensure that the information given hereafter and supplementary information submitted is correct.

I undertake to inform EirGrid of any changes to the information provided which may arise prior to the award of contract.

|                      |  |
|----------------------|--|
| <b>Signed:</b>       |  |
| <b>Print Name:</b>   |  |
| <b>Company Name:</b> |  |
| <b>Date:</b>         |  |

### 2.2 Group/Affiliate Declaration (To be completed and duplicated where relevant)

Tenderers seeking to show compliance based on the experience, capability or financial standing of the Tenderer's group or other affiliated companies will be required to:

- i. produce a commitment by the relevant entities to that effect;
- ii. provide details of the group/affiliate's relevant experience, capability or financial standing.
- iii. verify that a third party does not fall into any of the mandatory or other exclusionary grounds listed in Section 2.5 of this Form 2;
- iv. be jointly liable for the execution of the contract where the financial and economic standing of a group/affiliate company has been relied upon (Reg. 86 (5)).

This commitment should be demonstrated by submission of a signed declaration from an authorised signatory of the group/affiliates, confirming and acknowledging the use of such information by the Tenderer for these purposes.

In either case, where such commitment is not shown, neither group nor affiliates' experience, capacity or financial standing shall be considered.

This Declaration is to be signed by an authorised representative of the group/affiliate.

|                      |  |
|----------------------|--|
| <b>Signed:</b>       |  |
| <b>Print Name:</b>   |  |
| <b>Company Name:</b> |  |
| <b>Date:</b>         |  |

### 2.3 Sub-Contractor Declaration (To be duplicated and completed where relevant)

Where the experience or capacity of a sub-contractor is relied upon, the Tenderer will be required to show the commitment of the indicated sub-contractor to the Tenderers participation. In order to do this, Tenderers must submit a completed sub-contractor declaration, included below.

This declaration is to be signed by an authorised representative of the sub-contractor.

|                             |  |
|-----------------------------|--|
| <b>Signed:</b>              |  |
| <b>Print Name:</b>          |  |
| <b>Sub-Contractor Name:</b> |  |
| <b>Date:</b>                |  |

|   |  |
|---|--|
| <b>Services to be provided by the Sub-Contractor:</b> |  |
|---|--|

### 2.4 Group of Companies (To be completed where relevant)

|  |  |
|--|--|
| <p>If applicable please provide a brief description of how the group of economic operators will work, including confirmation of the lead. Please enclose an organisational chart with the proposed hierarchical structure of the grouping including any sub-contractor arrangements.</p> |  |
|--|--|

## 2.5 Exclusionary Criteria Declaration

**This section must be completed by the Tenderer.**

### **2.5.1 Mandatory Exclusions**

EirGrid shall exclude from further participation any Tenderer, or Member or sub-contractor thereof, where it has established (in accordance with Regulations 59 to 61 of the *European Union (Award of Public Authority Contracts) Regulations 2016*), or is otherwise aware that the economic operator concerned has been convicted of one or more of the following offences (whether arising before or during the procurement procedure):

- a) participation in a criminal organisation, within the meaning of Article 2 of Council Framework Decision 2008/841/JHA of 24 October 200836 on the fight against organised crime;
- b) corruption, which means corruption within the meaning of the following:
  - i. the Convention drawn up on the basis of Article K.3 (2)(c) of the Treaty on European Union, on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union drawn up under the Council Act of 26 May 19978;
  - ii. Article 2(1) of Council Framework Decision 2003/568/JHA37 of 22 July 2003 on combating corruption in the private sector;
  - iii. the law of Ireland or Northern Ireland, under the applicable legislation, where the contracting authority or the economic operator concerned is established;
  - iv. the law of the Member State, other than the State, in which the contracting authority or the economic operator concerned is established;
- c) fraud within the meaning of Article 1 of the Convention on the protection of the European Communities financial interests drawn up under the Council Act of 26 July 1995;
- d) terrorist offences or offences linked to terrorist activities, within the meaning of Articles 1 and 3 respectively of Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism or inciting or aiding or abetting or attempting to commit an offence referred to in Article 4 of that Council Framework Decision;
- e) money laundering or terrorist financing, within the meaning of Article 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;
- f) child labour and other forms of trafficking in human beings, within the meaning of Article 2 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA.

The above provisions also apply where the person convicted is a member of the administrative, management or supervisory body of the relevant entity or has powers of representation, decision or control in the relevant entity.

EirGrid shall exclude from further participation any Tenderer, or Member or sub-contractor thereof, where:

- g) EirGrid is aware that the relevant entity is in breach of its obligations relating to the payment of taxes or social security contributions and the breach has been established by a judicial or administrative decision having final and binding effect in accordance with the law of the country in which the operator is established or the law of Ireland.

This sub-paragraph (g) shall not apply when the relevant entity has fulfilled its obligations by paying, or entering into a binding arrangement with a view to paying, the taxes or social security contributions due, including, where applicable, any interest accrued or fines.

EirGrid shall not be obliged to exclude a relevant entity under this sub-paragraph (g) where only minor amounts of taxes or social security contributions are unpaid or the relevant entity was informed of the exact amount due following its breach of its obligations relating to the payment of taxes or social security contributions at such time that it did not have the possibility of paying, or entering into a binding arrangement with a view to paying, the taxes or social security contributions due (including, where applicable, any interest accrued or fines) before the expiration of the deadline for, as applicable, requesting participation or submission of tenders.

EirGrid shall not be obliged to exclude an economic operator under (a) to (g) above where:

- i. such an exclusion would be disproportionate;
- ii. on an exceptional basis, there are overriding reasons relating to the public interest such as public health or protection of the environment; or
- iii. the relevant entity has provided evidence (including that set out in Regulation 57 of the European Union (Award of Public Authority Contracts) Regulations 2016) to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant ground for exclusion. Where evidence provided is considered sufficient, the relevant entity concerned shall not be excluded from the procurement procedure.

EirGrid shall not be obliged to exclude a relevant entity under (a) to (f) above where a period of 5 years has lapsed from the date of conviction of the relevant entity for the offence concerned.

EirGrid shall not be obliged to exclude an economic operator under (g) above where the requirement a period of 5 years has lapsed from the date the relevant breach is established by the judicial or administrative decision concerned.

The exclusion grounds set out in this section shall also apply to the other entities on whose capacity a Tenderer intends to rely fulfil relevant selection criteria.

| 2.5.2 Please indicate if any of the circumstances set out above apply to your organisation (or any Member or sub-contractor of a Tenderer or any entity on whom the Tenderer intends to rely for relevant resources) | Please indicate your answer by marking 'X' in the relevant box. |
|--|---|
|  | Yes   |
| None of the circumstances set out above apply  | <input type="checkbox"/>  |
| One or more of the circumstances set out above apply   | <input type="checkbox"/>  |
| If any of the circumstances apply, please provide details:   |   |



### 2.5.3 Other Exclusionary Grounds

EirGrid may, subject to the paragraph below, exclude from participation in a procurement procedure any Tenderer, or Member or sub-contractor thereof, who falls within any of the circumstances set out below at (i) to (ix) (whether arising before or during the procurement procedure):

|               |  |
|---------------|--|
| <b>(i)</b>    | Is bankrupt or is the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the law of Ireland.   |
| <b>(ii)</b>   | Has undertaken to unduly influence EirGrid's decision making process or tried to obtain confidential information that may confer undue advantage in the procurement procedure or has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.   |
| <b>(iii)</b>  | Is guilty of grave professional misconduct which renders its integrity questionable.   |
| <b>(iv)</b>   | Has not fulfilled all obligations relating to the payment of social security contributions in Ireland and the law of the country in which the Tenderer is established.   |
| <b>(v)</b>    | Has not fulfilled all obligations relating to the payment of taxes in Ireland and the law of the country in which the Tenderer is established.   |
| <b>(vi)</b>   | Is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria, has withheld such information or is not able to submit supporting documents required.   |
| <b>(vii)</b>  | Has entered into agreements with other economic operators aimed at distorting competition.   |
| <b>(viii)</b> | Has not complied with applicable obligations in the fields of environmental, social and labour law that apply at the place where the works are carried out or the services provided that have been established by European Union law, national law, collective agreements or by international, environmental, social and labour law (as set out in Schedule 7 of the <i>European Union (Award of Public Authority Contracts) Regulations 2016</i> ). |
| <b>(ix)</b>   | Has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior public contract with EirGrid or a prior concession contract which led to early termination of that prior contract, damages or other comparable sanctions.  |

The exclusion grounds set out in this section shall also apply to the other entities on whose capacity a Tenderer intends to rely fulfil relevant selection criteria.

| <b>2.5.4 Please indicate if any of the circumstances set out above (i) to (ix) for exclusion apply to your organisation (or any Member or sub-contractor of a Tenderer or any entity on whom the Tenderer intends to rely for relevant resources).</b> | <b>Please indicate your answer by marking 'X' in the relevant box.</b> |
|--|--|
|  | <b>Yes</b>   |
| None of the circumstances set out above apply  | <input type="checkbox"/>   |
| One or more of the circumstances set out above apply   | <input type="checkbox"/>   |
| If any of the circumstances apply, please provide details:   |  |

## 2.6 Financial & Economic Standing

**All sections must be completed by the Tenderer.**

### 2.6.1 Self-Declaration of Financial and Economic Capacity

| Tax Clearance   |  | Please mark<br>‘X’ in the<br>relevant box to<br>confirm. |
|---|--|--|
| <b>(A) Tax Clearance Certificate – applicable for EirGrid contracts only</b>  |  |  |
| I confirm and declare on behalf of the company to having a current and valid Irish Tax Clearance Certificate issued by the Irish Revenue in place and our tax affairs are in order.                                   |  | <input type="checkbox"/>                                 |
| The Contracting Entity can verify your tax clearance status through Revenue’s online facility at <a href="https://www.revenue.ie/itp/view.jsp">https://www.revenue.ie/itp/view.jsp</a> . To this end, please confirm: |  |  |
| Do you grant the Contracting Authority permission to verify your tax cleared position online?   |  | <input type="checkbox"/>                                 |
| Registration Number:  |  |  |
| (as shown in your Tax Clearance Certificate)  |  |  |
| Certificate Number:   |  |  |
| (as shown in your Tax Clearance Certificate)  |  |  |
| <b>OR</b>   |  |  |
| <b>(B) eTax Clearance</b>   |  |  |

|   |  |                          |
|---|--|--------------------------|
| <b>I confirm and declare on behalf of the company to having a current and valid Irish eTax Clearance Certificate issued by the Irish Revenue in place and our tax affairs are in order.</b> |  | <input type="checkbox"/> |
| The Contracting Entity can verify your tax clearance status through Revenue On-Line Service (ROS). To this end, please confirm:   |  |                          |
| Do you grant the Contracting Entity permission to verify your tax cleared position online?  |  |                          |
| Tax Reference Number:   |  |                          |
| <i>(as shown in your eTax Clearance Certificate)</i>  |  |                          |
| Access Number:  |  |                          |
| <i>(as shown in your eTax Clearance Certificate)</i>  |  | <input type="checkbox"/> |

|   |                          |
|---|--------------------------|
| <b>OR</b>   |                          |
| <b>(C) I confirm that I have applied, or will apply, for an Irish eTax Clearance Certificate which will be made available on request should I be successfully awarded this contract.</b>  | <input type="checkbox"/> |
| <b>AND</b>  |                          |
| <b>(D) For non-Irish firms - I confirm being tax compliant in the country of establishment. Where evidence is available via electronic systems, please provide the link to compliance</b> | <input type="checkbox"/> |
| Electronic verification of tax compliance:  |                          |

| <b>Insurances</b>  |  |
|--|--|
| <b>Tenderers are requested to provide the levels they currently have in place:</b>   |  |
| <b>insurance levels:</b>   | <b>Tenderer to confirm levels in place</b> |
| <ul style="list-style-type: none"> <li>Employers Liability</li> </ul>  | €  |
| <ul style="list-style-type: none"> <li>Public Liability</li> </ul>   | €  |
| <b>I confirm that I will provide the following promptly on request at any time prior to the award decision being made:</b> <ul style="list-style-type: none"> <li>evidence of insurances in place; <b>or</b></li> <li>letter from Insurance Broker confirming that the required levels could be put in place if successful.</li> </ul> |  |

## 2.7 Health & Safety, Environment and Employment

This section must be completed by the Tenderer.

| Criteria   | Please mark 'X' in the relevant box.  |
|--|---|
| <b>Statutory Obligations</b><br><br>Please confirm that your company fully understands and complies with all of its statutory obligations under the following legislation: <ul style="list-style-type: none"> <li>• Occupational Health and Safety</li> <li>• Environmental Management</li> <li>• Employment and Equality legislation</li> <li>• Modern Slavery Act</li> </ul> | <div> <input type="checkbox"/> Yes      <input type="checkbox"/> No           </div> <div> <input type="checkbox"/> Yes      <input type="checkbox"/> No           </div> <div> <input type="checkbox"/> Yes      <input type="checkbox"/> No           </div> <div> <input type="checkbox"/> Yes      <input type="checkbox"/> No           </div> |
| Please confirm that you have procedures in place to ensure that sub-contractors/suppliers, apply the same standards.   | <div> <input type="checkbox"/> Yes      <input type="checkbox"/> No           </div>  |
| Please confirm that you will provide evidence of your Health & Safety, Environment and Employment/Equality Policies prior to the award decision being made, if requested.  | <div> <input type="checkbox"/> Yes      <input type="checkbox"/> No           </div>  |

### FORM 3 - Contract Acceptance Declaration

Award of contract will be subject to agreement of ENQEIR583 – DS3 System Services Agreement (**'Legal Agreement'**), included as part of these tender documents. Tenderers are required to sign the declaration below confirming that the Legal Agreement(s), in their current form, are acceptable.

Please note any queries regarding the Legal Agreement should be submitted as part of the clarification process outlined in section 1.11.

I as Company Director/Company Secretary/Company Solicitor confirm that the Legal Agreement, included as part of the tender documents, for the **DS3 System Services – Volume Uncapped** is acceptable in its current form and there shall not be any suggested changes to these terms subsequent to tender submission.

**I understand that no contract shall exist with the Contracting Entities unless and until contract documents are formally executed by both parties.**

**Signature:** .....

**Print Name:** .....

## **FORM 4 – Technical Questionnaire**

Tenderers are referred to the Technical Questionnaire included as part of the Tender Pack.

Tenderers are required to demonstrate compliance against the requirements set out in the Technical Questionnaire and Scope of Work, for each Lot they are applying for.

For Section A and Section B (where relevant) of the Technical Questionnaire:

A pass is awarded for every requirement that is met. A fail is allocated for every requirement that is not met.

A Tenderer must meet every single requirement (i.e. get a pass for every requirement in Section A (and B where applicable) in the Technical Questionnaire) in order to meet the minimum required score.

Note: This involves Tenderers confirming compliance of their proposal with the requirements set out in the Technical Questionnaire and providing satisfactory evidence where required. If it is not, the tender shall be rejected.

**See attached Technical Questionnaire.**

**This Response must be provided in Excel.**

## FORM 5 - RFP Final Check List

Tenderers must confirm they have submitted all the required forms and information:

| Tender Response Check List               | Please mark 'X' in the relevant box to confirm. |
|--|---|
| FORM 1 – Details of Tenderer             | <input type="checkbox"/>                        |
| FORM 2 – Declarations                    | <input type="checkbox"/>                        |
| FORM 3 – Contract Acceptance Declaration | <input type="checkbox"/>                        |
| FORM 4 – Technical Questionnaire         | <input type="checkbox"/>                        |
| FORM 5 – Response Final Check List       | <input type="checkbox"/>                        |

Failure to provide any of the information requested above in your Response might deem your Response non-compliant.

# PART 3 – INSTRUCTIONS TO TENDERERS

## 1 Overview of Instructions to Tenderers

The purpose of this section is to provide Tenderers with a series of instructions, which should govern their Responses to this RFP and ensure that their tender proposals are fully compliant with this procurement procedure. This section should be read in conjunction with Part 1 and Part 2 of this Tender Pack.

The entirety of documentation, including all of the sections and the Forms set out herein and any attachments (whether in electronic form or otherwise) is referred to as the Tender Pack.

## 2 Organisations in the EirGrid Group

EirGrid holds licences as independent electricity Transmission System Operator (TSO) and Market Operator (MO) in the wholesale trading system in Ireland, and is the owner of the System Operator Northern Ireland (SONI Ltd), the licensed TSO and market operator in Northern Ireland.

The EirGrid Group of companies includes:

- **EirGrid plc:** A leading Irish energy business, dedicated to the provision of transmission and market services for the benefit of electricity consumers. It is a state-owned commercial company, committed to delivering high quality services to all customers, including generators, suppliers and consumers across the high voltage electricity system and via the efficient operation of the wholesale power market. It puts in place the grid infrastructure needed to support competition in energy, to promote economic growth, to facilitate more renewable energy, and to provide essential services. In its role of TSO in Ireland, EirGrid operates and maintains a safe, secure, reliable, economical and efficient transmission system, as well as developing key infrastructural projects which are vital for the socio-economic development of the State. As TSO, EirGrid is regulated by the Commission for Regulation of Utilities (CRU).
- **SONI Limited:** SONI Ltd is the licensed transmission system operator (TSO) in Northern Ireland and has the responsibility of ensuring the safe, secure and economic operation of the high voltage electricity system in the north of Ireland. It is regulated by the Utility Regulator Northern Ireland.
- **SEMO Joint Venture:** The Single Electricity Market Operator (SEMO) is part of the EirGrid Group, and operates the Single Electricity Market on the island of Ireland. SEMO is a joint venture between EirGrid plc and SONI Limited. SEMO is regulated by the SEM Committee.
- **EirGrid Interconnector Designated Activity Company:** EirGrid has developed a High Voltage Direct Current (HVDC) electricity interconnector with 500 MW transmission capacity linking the British and Irish Electricity markets. This is known as The East West Interconnector (EWIC). EirGrid Interconnector Limited is the 100% wholly owned subsidiary company of EirGrid plc which manages the interconnector.
- **EirGrid Telecoms Designated Activity Company:** is a 100% subsidiary of EirGrid plc, established to manage fibre optic cables laid with EWIC.



For further details on EirGrid plc or any of the EirGrid Group companies please visit [www.eirgridgroup.com](http://www.eirgridgroup.com).

### **3 Tenderers**

Any company who submits a Response as part of this procurement process is referred to as a “Tenderer”.

Any proposed changes must be notified to EirGrid as soon as possible. Failure to notify any changes may result in disqualification of the Tenderer.

### **4 Joint Submissions**

Where a Tenderer has submitted a joint Response to fulfil the requirements one party must now be designated as the lead and if successful will be called the Prime Contractor.

EirGrid reserves the right to request evidence or copies of any agreements between the parties in this respect and to comment upon them and take them into account at any stage in this tender process.

EirGrid may at its absolute discretion and in particular, require a Tenderer to contract:

- As Prime Contractor with EirGrid only. Under this arrangement, the Prime Contractor is responsible for the delivery of all goods/services/works provided for under the terms of the contract and shall assume all the duties, responsibilities and costs associated with the position of prime contractor. Collateral warranties may be required in this case;
- A grouping may be required to contract as a single entity with joint and several liability arranged to EirGrid’s satisfaction;
- On the basis of joint and several liability among group members, arranged to EirGrid’s satisfaction.

Collateral warranties and/or guarantees may also be required from parties who are making available resources for the contract in a manner satisfactory to EirGrid. This will be dependent on the proposed nature of the relationship between the Prime Contractor and the other tender team members and the role the other members may have in the delivery of the services.

By submitting a Response the Tenderer warrants and represents that they can, and irrevocably agree that they will, comply, or procure compliance, as the case may be, with this section on request by EirGrid.

The failure by the Tenderer, as Prime Contractor, or any member of the joint submission to comply with any such requirement may result in its rejection and elimination from the competition.

### **5 Completion of Response**

Tenderers are required to complete the Forms in Part 2 of this document in accordance with these procedures and comply with any other requirements set out herein and to provide all the information and supporting documents required by this procurement process to enable verification. Tenderers are requested to provide the information required in as clear, concise and logical manner as possible with the Response to each Form clearly identified.

## 6 Compliance

Tenderers are required to comply fully with these Instructions to Tenderers when preparing their Response and participating in this procurement procedure.

Particular attention is drawn to the fact that non-compliance with these Instructions to Tenderers may, at the sole discretion of EirGrid, invalidate their Tender.

If a Tender fails to comply in any respect with the requirements set out in these Instructions to Tenderers, EirGrid will be entitled (but will not be obliged):

- I. to reject the relevant Tender as non-compliant;
- II. without prejudice to EirGrid's right to reject the Tender:
  - to meet with, raise issues and/or seek clarification from the Tenderer in respect of the relevant Tender;
  - to request the Tenderer to provide EirGrid with information or items which have not been provided or have been provided in an incorrect form;
  - to negotiate an amendment and/or change to the relevant Tender with the Tenderer;
  - to waive a requirement which, in the opinion of EirGrid, is minor, procedural, or non-material.

Incomplete Responses may be rejected at EirGrid's sole discretion.

Where a Response is rejected, tenderers may re-apply for consideration under the next Gated Process.

## 7 Amendments to the Tender Documents and/or Process

EirGrid reserves the right to update or alter the Tender Pack and the information contained herein at any time by notice in writing to Tenderers. These will be issued to all Tenderers and Responses will be assumed to take account of any such modifications and amendments.

EirGrid reserves the right not to proceed with the award process and to suspend or withdraw from the procurement process at any time.

Nothing in the Tender Pack is, or should be relied upon as, a promise or representation as to EirGrid's ultimate decision in relation to the award of the Contract. EirGrid reserves the right (in its absolute discretion):

- to change the basis of, or the procedures (including the timetable) relating to the tender process;
- to reject any, or all, of the Tenders;
- not to furnish Tenderers with additional information; or
- to abandon the competition.

## 8 Verification of Information

EirGrid shall be entitled to take all reasonable steps and make all reasonable enquiries to check information included in a submitted Response, including talking to referees provided without prior reference to the Tenderer.

## 9 Clarifications

During the evaluation period and at EirGrid's discretion, clarifications may be sought from Tenderers. Where information or documentation to be submitted by a Tenderer is or appears to be incomplete or erroneous, or where specific documents are missing, EirGrid may request that such a Tenderer submit, supplement, clarify or complete the relevant information or documentation.

Tenderers will be required to provide such clarification in writing. Responses to requests for clarification may not materially change elements of the tenders submitted.

No unsolicited communications from Tenderers will be entertained during the evaluation period.

## 10 Clarification Meeting with Tenderers

Under the Negotiated procedure, some or all Tenderers may be invited to make presentations on their Response for the purpose of elaboration, clarification and/or aiding mutual understanding. Responses

Invited Tenderers must be in a position to make such a presentation at a mutually agreed date. Any proposed subcontractors may be required to participate in the presentation. Additionally, EirGrid may wish to interview the key personnel proposed by the Tenderer for the contract. Accordingly, Tenderers must be in a position to make such personnel available for interview at reasonable notice, if so requested.

Tenderers will be required to bear their own costs in respect of any such meetings, interviews or presentations.

All information provided by Tenderers during clarification meetings will be considered as part of the evaluation process as appropriate to the Qualification or Award Criteria.

Our indicative timetable for these meetings is provided in Part 1 – Timetable.

## 11 Acknowledgement of Receipt of Tender Documentation

Tenderers should acknowledge, via email to [purchasing@eirgrid.com](mailto:purchasing@eirgrid.com), receipt of the tender documentation and confirm whether or not they intend to submit a completed tender by the closing date indicated in Part 1 Timetable.

All communication in relation to this tender process shall be in writing to the Procurement Department.

## 12 Preparation Costs

EirGrid will not be liable in respect of any costs incurred by Tenderers in the preparation of Response or any associated work effort.

Each Tenderer's costs will be the sole liability of that Tenderer, including costs of travel to and attendance at any meetings. EirGrid has no obligation to reimburse the Tenderer in respect of

costs incurred by it in the preparation of its Response or otherwise as a result of its participation in this procurement process, whatsoever or howsoever arising.

## **13 Confidentiality**

Tenderers are required to treat as confidential all documents provided in the Tender Pack and all other information whether in written, visual or oral form supplied to them by, or on behalf of, EirGrid, or acquired in the course of visits to EirGrid's premises. Reproduction of any such information, whether in whole or in part, other than for the purpose of the tendering process, is strictly forbidden without the prior written permission of EirGrid. Tenderers are responsible for ensuring the compliance with these requirements by any third party involved with the Response.

## **14 Freedom of Information Act, 2014 and the European Communities (Access To Information on the Environment) Regulations 2007-2014**

EirGrid is subject to the Freedom of Information (FOI) Act. EirGrid is listed in Schedule 1, Part 1 of the FOI Act which means that EirGrid is a "partially included agency" for the purposes of the FOI Act. Specifically, the FOI Act only applies to records held by EirGrid insofar as they concern its functions under its Transmission System Operator (TSO) licence granted under section 14(1) of the Electricity Regulation Act 1999.

EirGrid proposes the following:

- (i) The information in the Tender Pack for this tender will be made available on request.
- (ii) To hold confidential, any information provided by you in this tender competition subject to:
  - (a) disclosure of the information specified at (i) above as liable for release to the public; and
  - (b) EirGrid's obligations under law, including the Freedom of Information Act, which came into effect on 14 October 2015.

You are asked to consider if any of the information supplied by you in this Response should not be disclosed because of its sensitivity, (other than that referred to at (i) above). If this is the case, you should, when providing the information, identify same and specify the reasons for its sensitivity in accordance with Form 1 of this RFP. EirGrid will consult with you about sensitive information before making a decision on any FOI request received.

If you consider that none of the information supplied by you is sensitive, please make a statement to that effect in accordance with Part 2 Form 1. Such information may be released in Response to an FOI request.

Note: Freedom of Information requests may supersede other sections of these documents which refer to confidentiality.

## **15 Conflicts of Interest**

Any conflicts of interest involving a Tenderer must be fully disclosed to EirGrid as soon as the conflict of interest becomes apparent to the Tenderer, particularly where there is a conflict of interest in relation to any recommendations or Responses put forward by the Tenderer. Any

Tenderer who fails to comply with this obligation may be disqualified from further participation in this procurement process.

Any registrable interest involving the Tenderer and EirGrid employees or their relatives must be fully disclosed in the Response to this procurement process, or should be communicated to EirGrid immediately upon such information becoming known to the Tenderer, in the event of this information only coming to their notice after tender submission.

A Tenderer must, in particular, disclose if it, or any of its Members or sub-contractors or other parties that are to be identified in its Response, has any economic, legal, commercial or financial relationship with another Tenderer submitting a separate Response. In such an instance, the Tenderer must notify EirGrid as to the identity of the relevant party and the economic, legal commercial or financial relationship in question as soon as possible.

In the event of any conflict of interest, EirGrid shall, in its absolute discretion, decide on the appropriate course of action. This could include rejecting the Tenderer and its Response, a prohibition on proceeding in the manner proposed (for example by refusing to allow a Member to be a Member for a competing Tenderer) and/or specifying such other steps or safeguards as EirGrid considers appropriate.

EirGrid reserves the right as its absolute discretion to refuse to allow a Member or sub-contractor to be part of another competing bid.

## **16 English Translations**

All tenders, supporting documents and correspondence must be in the English or Irish language. In circumstances where an original document which is to form part of the Response or correspondence with EirGrid, is not in the English or Irish language the Tenderers must provide an English translation certified as accurate by the translator, together with a copy of the original document.

EirGrid will include a requirement in the Legal Agreement that any written reports and communication must be reviewed by a resource with English as a native language or holding at least IELTS Band 7, or equivalent.

## **17 Interference or Canvassing**

Tenderers must not canvass directly or indirectly any member of EirGrid, officer or employee of EirGrid, its advisers, or any member of the evaluation committee. Failure to comply with this requirement will result in disqualification from the procurement process.

Tenderers who endeavour to influence or interfere in any way with the evaluation process or award decision shall have their Response rejected. Any Tenderer who, in connection with this procurement process:

- (a) Offers any inducement, fee or reward to any member, officer or employee of EirGrid or any person acting as an advisor for EirGrid in connection with this contract; or
- (b) Does anything which would constitute a breach of the Prevention of Corruption Acts, 1889 to 2010; or

- (c) Canvasses any of the persons referred to in paragraph (a) in connection with this contract; or
- (d) Contacts any officer or employee of EirGrid prior to the Contract being awarded about any aspect of this contract in a manner not permitted by this procurement process,

shall be disqualified (without prejudice to any other civil remedies available to EirGrid and without prejudice to any criminal liability which such conduct by a Tenderer may attract).

## **18 Collusion**

Any Tenderer who, in connection with this procurement process:

- (a) Fixes or adjusts the amount or the terms of his tender by or in accordance with any agreement or arrangement with any other Tenderer (other than a member of its own consortium); or
- (b) Enters into any agreement or arrangement with any other Tenderer that they shall refrain from bidding or as to the amount or terms of any tender to be submitted; or
- (c) Causes or induces any person to enter into such agreement or arrangement as is mentioned in either sub-paragraph (a) or (b) above or informs any Tenderer of the amount or approximate amount or terms of any rival Response for this contract; or
- (d) Canvasses any of the other Tenderers in connection with this contract; or
- (e) Offers or agrees to pay or give or does pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for any information in connection with any rival tender; or
- (f) Communicates to any person other than EirGrid the amount or approximate amount or terms of their proposed Response (except where such disclosure is made in confidence and is necessary for the preparation of the Response),

shall at EirGrid's sole discretion be disqualified (without prejudice to any other civil remedies available to EirGrid and without prejudice to any criminal liability which such conduct by a Tenderer may attract).

## **19 Compliance with Laws**

Tenderers must comply with all relevant laws and regulations that are applicable to them in the context of this procurement and the services to be provided.

Any Tenderer that fails to comply with such laws and regulations to the satisfaction of EirGrid may be treated as failing to comply with the conditions of this procurement competition and may, at the discretion of EirGrid, be rejected and eliminated from the competition.

All contracts which may be entered into must comply with all applicable laws in particular but not limited to all competition and other regulatory obligations and will be subject to obtaining all relevant and applicable governmental, regulatory and EU consents, clearance and approvals.

This Tender Pack, Contract Agreement and any of the procurement documents or any matter or disputes related in any way or connected with or arising out of this tender process are governed by and construed in accordance with the laws of Ireland and shall be subject to the exclusive jurisdiction of the Irish courts.

## **20 Financial Viability**

The application of Qualification Criteria based on Tenderers' financial and economic standing does not preclude EirGrid from satisfying itself as to the financial viability of the designated successful tenderer by whatever means are considered appropriate prior to contract award.

## **21 Copyright and Intellectual Property**

Any programmes developed or used in the implementation of this contract, and all material associated with this contract, will be owned by EirGrid and it is the responsibility of the Tenderer to provide this to EirGrid on termination of any contract.

This is dealt with in more detail in the Legal Agreement.

## **22 Insurance**

Tenderers must demonstrate that they will be able to obtain and maintain the insurances required under the Legal Agreement. Tenderers are referred to the relevant provisions of the Legal Agreement.

## **23 Conditions Precedent**

If a contract is awarded arising out of this tender process, the award of a contract shall be conditional upon the Tenderer:

- a.** Producing, for inspection by EirGrid, a current tax clearance certificate or eTax certificate issued by the Irish Revenue Commissioners;
- b.** Providing evidence of insurances in accordance with the Legal Agreement;
- c.** Satisfying EirGrid as to its financial and economic viability, by whatever means EirGrid may consider appropriate;
- d.** Complying with all Legal, Health & Safety, Environmental and Employment declarations.

## **24 Notification of Outcome**

All Tenderers will be notified of the outcome of their Response following the completion of the evaluation process. Potential outcomes can be:

- i) A letter regarding failure to qualify;
- ii) A letter of regret relating to award of contract;

- iii) A letter of intent to award;
- iv) Notification of cancellation/postponement.

## **25 Standstill Period**

EirGrid shall not award any contract until a period of at least 14 calendar days has elapsed from the day after the electronic issue of the Notification of Outcome letters, or a period of 16 days where the Notification of Outcome letters have been issued via post.