

# Consultation Response to Ofgem

RE: Licence changes to support electricity  
transmission competition during RIIO-T1.

27 January 2017

## Dear Katie McFadden

We welcome the opportunity to respond to your latest consultation "Licence Changes to Support Electricity Transmission Competition During RIIO-T1" published 25 November 2016.

Mott MacDonald is a US\$2bn engineering, management and development consultancy including over 1,400 staff working directly on power-related projects. We are seen as world leaders in the power sector.

Katie McFadden

New Transmission  
Investment  
9 Millbank  
London  
SW1P 3GE  
United Kingdom

NTIMailbox@ofgem.  
gov.uk

For more than 100 years, we've delivered some of the industry's most prestigious and challenging assignments, playing a leading role on some of the world's milestone energy projects.

We are structured to support our global clients wherever in the world they are funding, developing or constructing power transmission and distribution projects and assets. We work closely with them and other parts of our business to bring together the skills needed for the specific requirements of their projects. We blend skills from our team of electrical, civil and environmental consultants, scientists, economists and project managers bringing this together with the rich and diverse skills available within our wider business as needed for our projects.

We have been engaged on all of the OFTO tender rounds and are very familiar with the competition approach and mechanisms associated with the OFTO regime. We therefore consider ourselves well placed to comment on the important items addressed in this consultation.

Our responses to each of the questions that we have identified as key areas where we can add value to the discussions are included in the following sections of this document.

We trust that you find our responses valuable and we would be very happy to provide further support as may be required.



**Duncan Broom**

Power Transmission and Distribution Project Director

Mott MacDonald  
Victory House  
Trafalgar Place  
Brighton BN1 4FY  
United Kingdom

T +44 (0)1273 365000  
F +44 (0)1273 365100  
mottmac.com

### Response to Question 3

What role do you consider the SO could play to support a tender during the RIIO-T1 price control period in gathering and providing information? Do you think this activity should be implemented through modifying the SO's licence or by making provisions in tender documentation

We would expect the SO to define the functional performance requirements for the proposed system modifications. This would directly inform the Functional Design Specification that is one of the key items specified in Schedule 1 of the proposed new condition 6M. There are established industry templates for defining functional performance requirements. Consideration could be given to adopting / adapting an existing industry template to provide a standard information suite for functional performance requirements.

### Response to Question 8

Do you agree the proposed obligations on conduct effectively implement our policy on ensuring the quality of works?

As Ofgem and other consultees have identified the quality of project definition works undertaken by the Licensee is paramount to the success of the bidding phases and ultimately to the cost efficiency of the CATO regime. The quality of initial project definition will have a direct impact on the risk profile of the bid across a number of areas including consenting, land rights, design, construction, and operation and maintenance activities over the 25 year licence period.

Much of the Tender Specification Data is time consuming and costly to compile, and indeed often can have defined seasonal windows for completion opportunities for survey works in particular. It is therefore particularly important that the required quality is specified, defined, communicated and adopted ahead of the commencement of the works in order to ensure efficient delivery and to avoid any costly delays.

The obligations that are proposed by Ofgem essentially stipulate that the Licensee must submit a number of compulsory documents and a number of supplementary documents the Licensee considers relevant. Our review of the comprehensiveness of the documentation requested is outlined in our responses to **Question 10** and **Question 11** below.

In summary we conclude that the proposed obligations and approach do not look unreasonable. If the Tender Specification Data is prepared diligently and to a standard in line with Good Industry Practice we would expect that the Authority will be well informed at the Final Tender Checkpoint. Further, if ultimately a Competitive Tender is commenced we would expect that the CATO would be able to produce a robust and efficient design on the basis of the Tender Specification Data. Our specific comments on the obligations are discussed below.

The Licensee is obligated to provide documentation *“in a form which is to the satisfaction of the Authority and fit for the purpose of a Competitive Tender”*. We consider that this is a reasonable guideline for the Licensee to adhere too and indeed a requirement that the Licensee would seek to target itself. We are inclined to align with Ofgem’s view that the Licensee will generally be well placed to determine format, quantum, and detail of documentation with reference to each Strategic Wider Works project and we thus conclude a reasonable level of autonomy in this regard is appropriate.

We consider, however, that the definition in its current drafting is too open and conclude that there could be merit in providing further specifics to manage the expectations of all parties (Licensee, Authority, and potential Bidding Units). We suggest that consideration could be given to targeting this by a dual approach of utilising additional widely recognised terms such as ‘in line with Good Industry Practice’ in addition to expanding on the content of particular Tender Specification Output documents as outlined in our response to Question 12 below.

Further the Licensee is obligated to undertake activity in production of the Tender Specification Outputs *“in a timely, economic and efficient manner, having regard to the purpose of the Tender Specification Outputs to facilitate the Authority commencing and conducting a Competitive Tender; and in a manner which, to the extent possible, facilitates the transfer of all necessary property, rights, and liabilities in connection with the Relevant Assets to a CATO”*. We consider a key requirement for ensuring and documenting quality is providing visibility of the design decisions and reference documentation that have informed the activity. We suggest that consideration could be given to including a clause which obligates the Licensee to undertake activity in a manner that provides the necessary visibility and documentation required for potential Bidding Units to readily identify rationale behind preliminary design decisions, specifications, and conclusions. This will be of particular importance during the Due Diligence phase of the bidding process and introducing a definition in this regard should ultimately make this phase of the process more efficient and reduce risk pricing from Bidding Units.

We suggest that consideration could further be given to including an additional preliminary review gate whereby the Authority reviews the preliminary documentation compiled by the Licensee and provides any feedback with respect to quality in a timely manner to allow remedial action to be taken ahead of the Final Tender Checkpoint.

We suggest consideration could be given to how The Construction (Design and Management) Regulations 2015 (CDM 2015) duties are discharged by the various parties in the pre-tender and tender process; we discuss this further in our response to Question 10 below.

## Response to Question 10

Do you have any additions or subtractions from Schedules 1 and 2 of the proposed new licence condition 6M/6J? Where suggested, please also provide an appropriate reasoning.

We suggest consideration could be given to the inclusion of the following in Schedule 1:

- A Designers' Hazard Elimination and Management Register. It is expected that the Licensee will have maintained this register throughout the production of the Tender Specification Document. Communication of this to the Authority and ultimately the Bidding Units is suggested to aid risk management and visibility as accountability for design is handed between the parties. More generally we would expect that the document will be required to ensure compliance with the CDM 2015 regulations. We suggest that the documents required to be transferred in order to discharge obligations within the CDM 2015 regulations should be reviewed and incorporated into Schedule 1 as appropriate to ensure compliance in this regard.
- Definition of any requirement for type registration at the asset interface points with particular reference to third party specifications. We would expect that this could be reasonably included in the Functional Design Specification of Schedule 1.

We suggest consideration could be given to the inclusion of the following in Schedule 2:

- Details of proposed major crossings of third party assets including number of crossings and summary of engagement to date with the third party (NG Gas, oil pipelines, etc.). Whilst information on Distribution Network Operator crossings is included in Schedule 2 we suggest that the Licensee may have similarly engaged with other infrastructure operators and conclude that a record of this should be provided for information and assessment.
- Records and findings of Statutory Searches undertaken that have informed design to date. Whilst it is expected that Bidding Units are likely to undertake their own statutory searches as part of the due diligence an initial understanding of searches undertaken to date will be key to understanding design decisions, risk, and to progressing design.
- Records and findings of Ground Penetrating Radar (GPR) surveys that have informed design to date. Similar to Ground Investigation Reports and other surveys that have been included GPR is a well-established survey used to inform design and will be key to understanding design decisions, risk, and to progressing design.

## Response to Question 11

### Is the split of items across schedules 1 and 2 correct?

In summary we consider that the content of Schedule 1 appears reasonable and constitutes the core key information we would typically expect to inform asset design. Schedule 2 is a comprehensive list of all supplementary documentation that may typically be required to prepare a bid and to progress design (refer to response to Question 10 for identified potential omissions).

The 'optional' definition of the items in Schedule 2 introduces an obvious risk interface/split. We would typically expect the provision of a full suite of Schedule 2 documentation would significantly de-risk the design and thus the Bidding Units' approach. Conversely a lack of any of the Schedule 2 documentation could be perceived to be of higher risk to the Bidding Units. A fine balance will need to be sought with reference to the quantum of documentation included in the Tender Specification Documentation. Clearly in some cases there may not be a significant driver for certain Schedule 2 documentation, or indeed it may not be feasible to deliver in the timeframe.

We consider that the Licensee should be well placed to identify which of the Schedule 2 documentation is key to informing the Authority's Final Tender Checkpoint and ultimately the Bidding Units' bids. We therefore conclude that the definition of Clause 6M.8 that essentially obligates the Licensee to provide Schedule 2 documentation to the extent that it considers it applicable to the relevant assets is reasonable. We believe that the ultimate 'spirit' of the license changes are to obligate the Licensee to provide Schedule 2 documentation where it is considered to have a material impact on the Bidding Units' bids. We therefore suggest that consideration could be given to requesting the Licensee provide a register that summarises the Licensee's decision to include/omit the Schedule 2 documentation from the Tender Specification Document.

## Response to Question 12

Do the items in Schedules 1 and 2 require further detail to be provided, or are the descriptions provided sufficient, in the context of application to specific projects?

We consider that the typical required content of each of the documents would generally be well understood by parties within the industry. Whilst additional detail on content is typically beneficial, we conclude that the majority of the items in the Schedules do not require additional detail to be provided.

We do, however, suggest that consideration could be given to further defining the content of the Functional Design Specification. This document will form a key reference tool for the Authority and ultimately for the Bidding Units. Therefore, we consider that insufficient detail or misalignment of expectations within this document could have the potential to impact the efficiency of the tender process and/or cause bidders to price excessively for risk. There are templates currently used in the industry that we consider would be well suited for the Functional Design Specification and suggest that consideration could be given to adopting one of these widely accepted common formats.

**For further information, please contact us:**

<b>Duncan Broom</b> <b>Project Director</b> +44 (0) 1273 365413 duncan.broom@mottmac.com	<b>Fay Lelliott</b> <b>Lead Advisory Engineer</b> +44 (0) 1273 365280 fay.elliott@mottmac.com
<b>Paul Fletcher</b> <b>Technical Director</b> +44 (0) 1273 365405 paul.fletcher@mottmac.com	<b>Michael Walker</b> <b>Lead Advisory Engineer</b> +44 (0) 1273 365233 michael.walker@mottmac.com

