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7 November 2014

Dear Mr Carr,

NSL's¹ response to CAP1226²: Provision of Terminal Air Navigation Services (TANS) in the UK: Call for evidence

I am writing in response to the CAA's call for evidence on the subject above.

The CAA's previous assessment of the UK TANS market (CAP1004³) in 2013 found that while there was evidence pointing in different directions, on balance three of the EU Regulation assessment criteria were not met. In particular, the CAA noted that, while there were no statutory barriers to contestability and the market was liberalised, there was limited evidence of actual switching between providers and few examples of competitive tendering having taken place.

As summarised below, as a result of fundamental changes in the market and actions taken by NSL, there has been significant progress in addressing the barriers identified by the CAA leading, in NSL's opinion, to all EU Regulation assessment criteria now being met:

- **Condition 1: the extent to which service providers can freely offer to provide or withdraw the provision of these services:**
 - The NSL interface with NERL⁴ has been clarified and Interface Agreements with airports have been signed
 - NERL provides the same high quality level of service and engagement to all airports
 - Two airports (Tier 1&2) have demonstrated that neither the interface nor the ToaP⁵ arrangements are barriers to switching TANS provider
- **Condition 2: the extent to which there is a free choice with respect to service provider, including, in the case of airports, the option to self-supply:**
 - Two airports (Tier 1&2) have switched from NSL to self-supply or an alternative TANS provider

¹ NATS (Services) Limited

² <http://www.caa.co.uk/docs/33/CAP%201226%20Provision%20of%20TANS.pdf>

³ <http://www.caa.co.uk/docs/33/CAP1004SESMarketConditionsforTerminalAirNavigationServices.pdf>

⁴ NATS (En Route) plc

⁵ Trust of a Promise

- A third airport ✂ indicated they were willing and able to take TANS in-house ✂
- This provides compelling evidence that tolerance of transition risk, complexity of operation and NSL cost transparency are not barriers to market conditions

- **Condition 3: the extent to which it can be chosen from a range of service providers:**
 - Competitive tendering processes have been run by one Tier 1 airport and two Tier 2 airports
 - A new provider (DFS) has entered the UK TANS market
 - Airport operators have credible alternatives to NSL
 - Provision of ATC engineering services continues to be highly competitive

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Further, there is no new evidence to suggest that the CAA's previous findings, that conditions 4⁶ and 5⁷ were fulfilled, have changed.

Therefore, NSL considers that there is compelling evidence for the market to be considered contestable on the basis that all five of the EU Regulation's criteria on market conditions are met.

Our response on the following pages provides further detail.

Please do not hesitate to contact me if you have any queries at louise.balmforth@nats.co.uk.

Kind regards



Louise Balmforth
Regulation Manager

⁶ For terminal air navigation services, the extent to which airports are subject to commercial cost pressures or incentive-based regulation

⁷ Where the provider of terminal navigation services or CNS, MET and AIS services also provides en route air navigation services, these activities shall be subjected to separate accounting and reporting

Condition 1: The extent to which service providers can freely offer to provide or withdraw the provision of these services

NSL interface with NERL now clarified

In CAP1004, the CAA concluded that there was not enough transparency around the commercial interface between NSL and NERL to build confidence amongst airport operators and other ANSPs that the licensing regime was working as it should.

Following this conclusion, in the TANS RP2 business plan⁸, NSL proposed a Commitment to:

- document all interfaces between NERL En Route Centres and all civil UK airports of over 30,000 IFR movements per annum in an operational 'Interface Agreement'
- operate all operational interface agreements between NERL En Route Centres and civil airports of less than 30,000 IFR movements per annum where NSL provides tower ATC services on the basis of equivalence and transparency as detailed in the 'Interface Agreement' between the parties.
- provide, at the request of the Airport Operator, an operational "Interface Agreement" for interfaces between NERL En Route Centres and all other civil UK airports of greater than 10,000 IFR movements per annum.

Templates of the Interface Agreements for different sized airports can be found in the Appendices.

Airport operators are aware of these Commitments as they are in the public domain and formed part of the TANS RP2 plan consultation (e.g. with some operators offering comment). In addition, NSL has also discussed the Commitments during contractual discussions with customers.

NERL provides the same high-quality level of service and engagement to NSL and non-NSL airports

It is important to note that NERL provides the same level of service (e.g. timeliness and quality) to airports irrespective of whether they are NSL or non-NSL operated. Some examples of the good engagement that has taken place between NERL's Prestwick and Swanwick Centres and UK airports are set out below.

Prestwick Centre:

- Established a managerial post for all airport engagement around two years ago
- Allocated five Service Improvement Managers (SIMs) to a group of airports depending on geography; they act as the focal point for resolving any issues raised by all the airports within the airspace
- Responded to a number of non-NSL operated airports' requests including Dundee, Newcastle, Prestwick and Ronaldsway through our SIMs
- Created an escalation process, such that if an airport is not satisfied with a response by a SIM, an Operational Performance Manager will work with the airport to resolve the issue. ✕

⁸ <https://www.caa.co.uk/default.aspx?catid=5&pagetype=90&pageid=15603>

- Held annual meetings at Prestwick for non-NSL Senior Air Traffic Control Officers with excellent attendance. The most recent meeting was on 30th October. The agenda can be found in the Appendices
- Arranges visits of each airport annually by the Operational Performance Manager or the Prestwick GM Operations
- Attends Flight Operations Safety meetings held by the airports to brief them on what NATS is doing and to respond to any concerns
- Allocated a manager to deal solely with delivering environmental improvements to airport interfaces under the NATS environmental programme to identify and deliver savings at both NSL and non-NSL airports
- Refreshed, renewed and re-signed all interface agreements with every airport within its area of responsibility within the last 12 months

Swanwick Centre:

Given that the Area Control (AC) Centre operation primarily deals with aircraft in the en route phase of the flight, the main interface at Swanwick occurs between the Terminal Control (TC) Centre and the airports. In addition to the information provided previously and which has been summarised within CAP1004, further actions have been undertaken to improve the interfaces as set out below:

- TC Centre:
 - Established 'Interface Agreements', covering safety, service, communications and customer interfaces, between NERL and Birmingham, Southampton, Stansted, Luton, London City, Farnborough, Gatwick, Heathrow and Stobart Southend (Non-NSL) airports
 - Established operational managers with responsibility for relationships with airports
- AC Centre:
 - Established operational managers with responsibility for relationships with airports
 - Held the first AC/Airport interface meeting, in early 2014, at GM/Senior Air Traffic Control Officer level, with all airports within the area of responsibility invited
 - Proposes to continue these meetings bi-annually, with the next scheduled for 6th November where a draft Service Level Agreement will be presented initially covering safety issues at the interface and formalising a KPI-method of managing relationships
 - Proposes to increase the scope of the Service Level Agreement over time
 - Operates the Western Radar Services (providing an air traffic service outside of controlled airspace) which now hold a number of Memorandum Of Understandings and Letters of Agreements with Bournemouth, Cardiff, Exeter, Gloucester, Newquay and Southampton airports, as well as the Plymouth and Swanwick Military

In switching from NSL to alternative TANS providers, two large airports have demonstrated that there are no perceived barriers relating to the NERL/NSL interface

In CAP1004, the CAA stated that any perceived barrier arising out of the NERL/NSL interface might be removed 'should airport operators observe a successful example of an alternative ANSP replacing NSL at an airport and forging an effective relationship with NERL'. Evidence of the removal of this perceived barrier arises from the decision by both Birmingham (BHX) and Gatwick (GAL)⁹ airports to select alternative TANS providers to NSL, alongside the Interface Agreements that help ensure successful working relationships between NERL and the airports. It is important to note that the BHX transition is well advanced (transition being 1 April 2015) and demonstrates that the perceived barrier relating to NERL/NSL interface has been overcome in practice through discussions and agreements reached as part of the transition process between NERL and BHX.

Given BHX and GAL have chosen to switch from NSL to an alternative TANS provider, any barrier relating to the NERL/NSL interface clearly does not exist. In addition, these changes increase the confidence of other airports in their perceived ability to choose alternative providers to NSL.

To conclude:

- NERL has clarified the NERL/NSL interface through Interface Agreements
- NERL provides the same high-quality level of service and engagement to NATS and non-NATS airports
- any previously perceived barriers relating to the NERL/NSL interface have been removed as evidenced by the selection by two large airports of alternative TANS providers to NSL; and
- as a result of this evidence the interface between NERL and NSL should no longer be considered an economic barrier to market conditions.

NATS Trust of a Promise (ToaP) and the transfer risk of ATCOs

In CAP1004, the CAA considered that the ToaP was a relevant economic barrier in its assessment of contestability. This was due to the uncertainty it was felt this created and the potential for additional costs to non-NSL ANSPs bidding for airport contracts.

To address this barrier, NSL proposed a further Commitment (described in the TANS RP2 business plan) which:

- allows ATC contracts to be extended on current commercial terms by up to one year to facilitate transition to a new ATC provider
- provides Airport Operators and prospective providers with a clear view on what NATS understands the practical consequences of the ToaP to be
- provides redacted information regarding how many and what category of staff are covered by the ToaP
- supports transition to a new ATC provider by NSL agreeing to train an agreed number of ATCO staff employed by the new provider over an agreed period of time on commercial terms

⁹ Although GAL has announced an award to DFS, NSL is challenging the fairness of that award. Whatever the outcome of that challenge, it will be based on the fairness of the process and does not affect the fact that GAL has had the confidence to make such an award nor DFS' presence in the UK market.

- supports transition to a new ATC provider by NSL agreeing to second an agreed number of ATCO staff that are covered by the ToaP over an agreed period of time to the new ATC provider

The application and effectiveness of this commitment has been demonstrated during the transition currently in progress at BHX where the ATC contract has been extended by a year to allow sufficient transition time following our customer's request. Here, a number of ToaP staff have chosen to transfer to Birmingham Airport Air Traffic Limited (BAATL) and a number of NSL staff will be seconded to BAATL for an agreed period of time post transition. During this period NSL continues to train BAATL ATCOs under the terms of NSL's licence. This arrangement provides evidence that transfer of the ATC service from one provider to another does not require all staff to transfer and that it can be successfully managed. In conclusion, the operation of the Commitment made by NSL shows that ToaP does not impose an economic barrier to market conditions.

To conclude, the transition at BHX showed that many ATCOs did transfer to BAATL. Therefore, clearly the ToaP is not a barrier. Further, even if all ATCOs do not transfer to a new provider, NSL's commitments can facilitate the transition.

ATCO career progression

CAP1004 found that there was not 'sufficient evidence to suggest that the provision of ATCO career progression provides a greater barrier to entry than in other industries'. NSL agrees with the CAA's previous finding that the question of career progression applies to many small companies throughout the economy and that the CAA's prior conclusion still applies.

Duration of contracts

In CAP1004, the CAA did not consider contract duration to present a material adverse factor in the assessment of market conditions. There was also support from other respondents that the contract needed to be long enough to allow the provider to enable a return on investment, thereby making the market more attractive to new entrants.

There has been some debate around the optimal length of ATC contracts with a number of airport operators ✂ requesting contracts of longer duration in return for increased efficiencies and innovation. There are a number of reasons suggesting that longer contracts may be optimal:

- For some new entrants who will need to manage a transition from the existing provider, contracts of shorter duration (e.g. less than five years) are potentially a barrier because the contract timescale may not allow the expected return on investment
- ATC is a critical part of the airport's infrastructure and can form an important piece of each airport's development plan. A contract of up to ten years provides certainty around ATC price and performance. This was a high customer priority ✂.

✂

Therefore, NSL considers that the CAA's prior assessment that contract duration was not an adverse factor in its assessment of market conditions still applies. Indeed, developments since CAP1004 have tended to strengthen that conclusion.

ANS asset ownership arrangements

CAP1004 stated that no respondents had highlighted concerns about asset ownership or transfer arrangements. ✂

This evidence supports the prior conclusion made by the CAA that asset ownership does not provide a barrier to the existence of market conditions.

Condition 2: The extent to which there is a free choice with respect to service provider, including, in the case of airports, the options to self-supply

Tolerance for transitional risk of service provision

In CAP1004, the CAA concluded that 'a relatively low tolerance for service disruption may at present reinforce the impact of other factors such as the ToaP and the NERL interface. Although airport operators' risk tolerance is not a barrier in and of itself, when seen in the context of such issues as the ToaP, it may raise a practical barrier for an airport'.

For reasons, and supported by the evidence, presented earlier in this letter NSL considers that the NERL/NSL interface and the ToaP do not present barriers to entry. For this reason, the paragraphs that follow focus solely on the transition risk of service provision.

BHX, a Tier 2 airport, has chosen to switch from provision of TANS by NSL to self-supply. This decision has created a model for future service transitions in the UK TANS market. It is NSL's understanding that the transition of services to BAATL is set to occur on time and within the budget set by the airport operator. This provides clear and compelling evidence that transition risk is not a barrier to switching provider in the UK TANS market.

Since BHX made the decision to transition to self-supply, NSL has worked closely with both BHX and BAATL and has provided support in a number of areas:

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The decision by GAL, a Tier 1 airport, to award its ATC contract to DFS again provides compelling evidence that one of the most complex airports in the UK does not view transition risk as being a barrier to switching to a new provider. ✂

✂

In CAP1004 the CAA noted that as airport operators gain more confidence with moving between TANS providers, this barrier is likely to be reduced. Since that conclusion, both the BHX transition and the planned GAL transition provide confidence to other airport operators that transition itself does not provide a barrier to switching.

Complexity of operation

In CAP1004 it was noted that an ANSP's track record of providing services in a complex airspace environment, or at a complex airfield layout, is an important factor when considering a suitable alternative provider. At the time CAP1004 was written, due to no recent changes in TANS providers at UK airports with a considerable level of complexity, the CAA concluded that it was difficult to judge the impact of this perceived risk on TANS market conditions in the UK.

The fact that BHX, a Tier 2 airport, has chosen to move to self-supply, and the fact the GAL, a Tier 1 airport – the busiest single runway operation in the world, has chosen to

move to an alternative supplier provides compelling evidence that airport operators consider that alternative providers, or self-supply, can credibly provide a similar service to an existing provider. ✂

With this evidence in mind, NSL considers that the complexity of the ATC operation does not provide a barrier to market conditions in the UK TANS market.

NSL cost transparency

In CAP1004, the CAA felt that a greater transparency of TANS costs would enhance the confidence of airport operators by enabling them to judge value for money of their contracts, and would therefore help in developing market conditions.

Since that assessment, there have been significant changes in the industry in terms of airport ownership¹⁰ and the movement of senior executive personnel¹¹ between airports in the UK. This, along with the use of consultants specialising in competitive tenders (Cyrrus), has provided a better understanding of the costs of TANS provision, improved tendering processes and increased airport operators' ability to benchmark costs. It is worth noting that NSL's recent tender processes have required detailed disclosure of costs.

The RP2 requirements for the publication of aggregate TANS costs (across Europe) has also provided a large amount of cost information for airport operators to use to gain a good insight into the value for money they are obtaining through their contracts.

In conclusion, NSL considers that there is significantly more information available in the market than at the time of the CAA's previous assessment. Our customers are now very knowledgeable and are informed by benchmarking results to be confident they have value for money in their TANS contracts. This is illustrated as follows:

- BHX – knowledge of self-supply options
- MAG – knowledge of delivering a TANS service at another airport and benchmarking conducted during the renegotiation process
- London Luton Airport Operations Ltd (LLAOL), BHX and GAL - knowledge gained through a competitive tender process
- Cardiff and Belfast Airports – access to significant benchmarking information gained through the competitive tender processes of ATC at other airports in the same group (Abertis).

As a result, airport operators' bargaining power is strong. ✂

Self-supply

CAP1004 did not highlight that self-supply of TANS in the UK presented a material barrier to contestability. However, the report did note that while it was feasible for operators of Tier 2 airports to choose self-supply, the CAA considered it unlikely that Tier 1 airports would opt for self-supply.

¹⁰ Divestment of the BAA Group, with the sale of Gatwick and Edinburgh Airports to GIP and the acquisition of Stansted by MAG; the sale of London City Airport to GIP (formally owned by Dermott Desmond); the sale of Belfast Airport from Abertis to ADC/HAS; the sale of Cardiff Airport from Abertis to the Welsh Government; the sale of Luton Airport from Abertis to Aena; changes in share ownership of Bristol Airport

¹¹ In relation to senior executive personnel changes, there are several examples of CEO/MD/COO moves between UK Airports

Since that assessment, BHX (a Tier 2 airport) has chosen to make the transition to self-supply. ✂ This evidences that self-supply is a credible option at both Tier 1 and Tier 2 airports. ✂

Condition 3: The extent to which it can be chosen from a range of service providers

The existence of a public tendering process

CAP1004 concluded that there was limited evidence of alternative ANSPs competing in the tendering processes in the UK at that point. In addition, the CAA concluded that alternative ANSPs were likely to face a significant credibility hurdle in the minds of some airport operators in the UK when responding to tenders. This was a feature the CAA expected to reduce as operators became more confident in switching providers.

Since that assessment, there has been an increase in the number of contracts that have been competitively tendered, with tenders held at BHX, GAL, and LLAOL, as well as smaller airfields, e.g. Wattisham. Through the process held at GAL, a new provider (DFS) has entered the UK TANS market. The fact that ✂ DFS entered the competition for GAL provides clear evidence that European ANSPs are considered to be credible alternative providers of TANS in the UK and that therefore the relevant market for TANS providers may be European. Further details on all these tender processes can be found in the Appendices.

Although on a smaller scale, it is evident from the recent Qinetiq competitive tendering exercise for firing ranges that other ANSPs are seeking to expand their TANS capability within the regional airports market place. ANSPs such as ATCSL (Peel), The Rigby Group and Serco who already provide TANS at a number of regional airports e.g. Coventry, Exeter and Norwich represent credible competition in the regional airports TANS market.

NSL has also facilitated public tendering processes by agreeing to extend the previous contracts at both ✂ airports by a year to enable them time to investigate both the options of self-supply and to run a competitive tender process if they chose to. ✂

NSL is responding to the increasingly competitive market in the UK (competitive tenders and contract re-negotiations) by delivering ✂. This is consistent with the finding by the Performance Review Body that the TANS DUC for the UK is projected to be the third lowest in Europe in 2019, confirming that NSL's service is extremely efficient in the European market, and that outcomes have clearly been favourable to airports and users and in line with competitive outcomes. Further evidence of these cost efficiencies and comparisons with prior contracts can be found in the Appendices.

At the time of the last assessment, the CAA noted that some airport operators were pessimistic about the potential for switching. Following BHX's decision to self-supply and GAL's decision to appoint DFS, airport operators' perceptions have changed as it has become apparent that there are credible alternatives to NSL and that the transition can be undertaken with the appropriate risk management options.

Condition 4: For terminal air navigation services, the extent to which airports are subject to commercial cost pressures or incentive-based regulation

Whether airports actively compete for airline business and whether airports operate in a competitive environment or under incentive-based regulation

CAP1004 found that airport operators appear to either face competition or incentive based regulation. The CAA concluded that airport operators in the UK face cost pressures such that they would seek to minimise the cost of ANS provision as a result of either regulation or competitive pressures.

Since that assessment, the increased competition in the airports market which has led to recent changes in regulation, e.g. Stansted Airport and Gatwick Airport, have provided airports with greater incentives to minimise the costs of TANS provision. Airlines are also exerting significant buyer power on airports by moving planes between airports if they feel it provides a cost advantage. ✂.

NSL supports the CAA's prior conclusion that airports in the UK are subject to commercial cost pressures or incentive-based regulation sufficient to meet this condition. Indeed NSL would argue that such pressures on airport operators has increased significantly since the last contestability review with announcement of the HAL Q6 settlement and more general commercial cost pressures in the aviation industry.

The extent to which airports bear the ANS charge

In CAP1004, the CAA stated that stakeholders had not raised the issue of the extent to which airport operators bear the ANS charge and the CAA was not presented with any evidence or views to the fact that this has an effect on the development of market conditions in the UK TANS market. NSL can see no recent evidence that contradicts the CAA's previous conclusion.

Condition 5: Where the provider of terminal air navigation services or CNS, MET and AIS services also provides en route air navigation services, these activities shall be subjected to separate accounting and reporting

Given the continuing legal requirements for separate accounting for NERL and NSL, NSL considers view that the CAA's previously expressed conclusion that it 'is satisfied that this criterion is met for the TANS provided airports' should remain unchanged.

Appendices

- A. Interface Agreement templates (small, medium and large)
- B. Non-NATS Senior Air Traffic Control Officers Meeting Agenda
- C. Luton competitive tender process
- D. Birmingham competitive tender process
- E. Gatwick competitive tender process
- F. Evidence of competitive environment discussed within Board papers
- G. Further Board extracts
- H. Evidence of cost efficiencies and contract comparison data

Appendix A – Interface Agreement templates (small, medium and large)

Documents in separate files entitled:

- NATS Interface Charter Template Small
- NATS Interface Charter Medium
- NATS Interface Agreement Template LARGE

Appendix B – Non-NATS Senior Air Traffic Control Officers (SATCO) Meeting Agenda

Non-NATS SATCO Meeting – 30th October 2014		
Venue: Prestwick Centre Conference Room		
Time: 0930 - 1715		
Agenda		
0900 – 0930	Arrival at Prestwick Centre – Teas/Coffees	
0930 - 0945	Welcome and Introductions	Jamie Hutchison (NATS)
0945 - 1030	PC Update – Safety/Service/Development	Tony Summers (NATS)
1030 - 1100	Class F Airspace	Dave Drake (CAA)
1100 - 1115	Tea/Coffee	
1115 - 1145	Airline Update	Graham Hill (FLYBE)
1145 - 1215	Transition Altitude Update	Andy Chapman (NATS)
1215 - 1300	Lunch	
1300 - 1500	Airfield Updates	All
1500 – 1515	Tea/Coffee	
1515 - 1615	Wash up and Q & A	All
1615 - 1715	Operations Room visit	All

Appendix C – LLAOL competitive tender process

Information request:

London Luton Airport Operations Ltd. (LLAOL) Tender Process 2011/12

The aim of the questions below is to allow us to understand how you participated in the recent open tender processes. The questions form a broad guide to our areas of interest. We request that as well as either written or oral response that you provide documentary evidence through which you can support your response. The supporting material may be in the form of meeting notes, presentation or reports.

1. How did you find out about the opportunity to tender?

- Verbal communication through the normal business relationship with LLAOL as part of everyday business.
- Discussions on future provision linked to their contractual right to go to tender at end of existing contract.
- LLAOL informed us formally as incumbent ANSP of their intention to go to tender as required in the then current contract.
- Official Journal of the European Union (OJEU) Notice published on 30/11/2011.
- Pre-Qualification Questionnaire (PQQ) issued in early December 2011.

2. What information were you provided with prior to submitting a bid?

- PQQ questionnaire comprised a soft copy document pack containing general instructions, scope, objectives, outline tender timescales, outline evaluation criteria, PQQ questions template, as well as background information considered useful by LLAOL.
- Invitation to Tender (ITT) comprised a soft copy document pack containing general instructions, scope, objectives, tender timescales, evaluation criteria, response templates, tender questions, compliance matrices, and pricing tables, as well as background information considered useful by LLAOL.
- On site briefing of all bidders.
- LLAOL responses to bidder's questions.
- At Luton's request, NATS (as incumbent provider) facilitated a data room containing documents and procedures that a bidding ANSP would need access to in order to bid. Access was managed under an NDA process and the data provided included the following information:

Safety

- Safety Critical data e.g. Luton relevant Safety Occurrence Reporting such as:
 - Airproxes
 - MORs
 - CHIRPS
- CAA Safety Audits for the last 2 years including Non-conformances and proposed corrective actions and remedial Actions Plans

- For each system, the annual system performance reports that confirm compliance with Safety Requirement

Maintenance

Maintenance information comprising;

- Equipment Manuals
- Maintenance Schedules
- Due dates for mandatory checks on nav aids
- Latest nav aid Flight Check reports
- Current Spares list with serviceability
- Equipment Manufacturer & other Engineering maintenance support contracts
- Contracts for the provision of operational data e.g. Radar, CCDS, AFTN data etc.
- List of back-up software and adaptation files
- Engineering Log
- Last 6 months Equipment failure reports

Operational

- MATS Part 2
- TUPE related data
- ATC Watch Log
- Sample of recent Roster
- Third Party Agreements

2.1. Did you, as the bidder, understand the aims and objectives of the airport operator in holding an open tender?

We understood that the intention was to achieve the **most economically advantageous contract** for LLAOL. The objectives were defined in the PQQ document – extract below:-

Goals, aims & objectives

The objective of the PQQ is to select those potential tenderers that are capable of ensuring the following:

- High standards of safety;
- Maintenance and continued development of the quality of the Air Traffic Service provided;
- Increasing the Air Traffic Movement (ATM) capacity in a cost-effective way to realise the maximum potential runway utilisation to permit safe increases in traffic levels;
- Reducing costs through improved efficiency;
- Reducing, or eliminating, the potential for negative publicity of LLOAL by facilitating a 'good-neighbour' policy through the mitigation of the various environmental impacts of aircraft operations in the locale.

2.2. What was your understanding of the process prior to bidding?

The process and timetable was communicated to us by the airport customer prior to bidding.

Event	Date
OJEU notice	30 th November 2011
PQQ return date	16 th December 2011
ITT pack available for release	13 th December 2011
On site briefing meeting	9 th -13 th January 2012 (anticipated)
Last date for submission of response to ITT	10 th February 2012 (anticipated)
Post tender interviews	7 th -9 th March 2012 (anticipated)
Selection of bidders invited to submit final bids	26 th March 2012 (anticipated)
Opening of Data Room	27 th March 2012 (anticipated)
Closing of Data Room	9 th April 2012 (anticipated)
Last date for submission of final bids	16 th April 2012 (anticipated)
Contract award	3 rd May 2012 (anticipated)

2.3. What was your understanding of the scope of service requirements prior to bidding?

From the PQQ phase we understood the scope to encompass a bid for one, either or both Lots, comprising the following:

Lot 1 - Applicants responding to the ATC requirement shall be responsible for providing:

- An aerodrome control (ADC) service
- The ADC service shall be provided on a 24-hour basis and shall have authority over all aircraft arriving and departing at the Airport
- An appropriate training regime that meets UK CAA Requirements and Recommendations;
- Met reporting, currently provided using PAMOS;
- The provision of added value services that are an essential and integral part of the provision of a safe and efficient ATS.
- The applicants should be prepared to put forward innovative proposals, including – but not confined to - improving Air Traffic Movement (ATM) rate, general efficiency, and, potentially, providing an Emergency (contingency) ADC capability.
- The delivery of the service is to be undertaken in accordance with the agreed Service Level Agreement (SLA).
- Transition of the above from the incumbent service provider in a manner compliant with UK regulatory requirements and to the satisfaction of the UK Civil Aviation Authority (CAA).

Lot 2 - Applicants responding to the ATE requirement shall be responsible for providing:

- A planned and corrective maintenance engineering service covering all systems that support provision of the ATC service at Luton.
- Engineering staff with competence to undertake the following tasks and functions:
 - Provide regular quantitative reviews of system performance against the operational safety and airport business requirements. Define and adapt the maintenance regime to ensure system performance is maintained. Technically

- accept new systems and changes to existing systems to ensure compliance with regulatory requirements relating to maintenance, support and training.
- Maintain compliance to Safety Management Systems and CAA Regulations. Plan the safe introduction of new systems. Provide regular management reports with SLA and system performance data.
 - Manage the day-to-day engineering activities and tactically deal with unplanned tasks to ensure safe and efficient operations. Manage incidents in accordance with the CAA Requirements and Recommendations.
 - Deliver planned and corrective maintenance using staff approved by the CAA. Corrective maintenance to be undertaken in accordance with the agreed SLA.
 - Provide an appropriate training and competency regime that meets UK CAA Requirements and Recommendations;
 - The applicants should be prepared to put forward innovative proposals, including – but not confined to – remote engineering support service, changes or provision of new equipment to reduce maintenance tasks and improve system availability and overall efficiency.
 - Transition of the above from the incumbent service provider in a manner compliant with UK regulatory requirements and to the satisfaction of the UK CAA.

This scope above was then further refined in the published ITT.

2.4. Do you consider that you had sufficient information on which to make a sensible bid?

Yes

3. Following expressions of interest were you invited to formally bid?

Yes – we received Invitation to Tender documentation, see below at 3.2.

3.1. If the bid did not progress can you explain why this was the case?

N/A

3.2. How was information provided to you? Was it easy to access the relevant information?

Provided as soft copy ITT documentation emailed to NATS by Cyrrus, the company running the tender process for the airport. Clarification questions were posted and responded to via a web portal. These questions and answers were shared with all bidders automatically. It was easy to access the relevant information.

3.3. After submitting a bid were you provided with feedback on potential improvements to your offer?

Prior to down-select all bidders were invited to attend an individual proposal clarification meeting to discuss responses to the tender documents with LLAOL. This was primarily to determine what was considered in-scope and out-scope of the offer. After down-select to preferred bidder a one-to-one negotiation phase took place with LLAOL.

4. What challenges, if any, did you face in bidding?

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5. Overall how do you consider competitive tendering will develop in the UK?

Airports within the UK continue to face increasing pressure from their airline customers around both aircraft landing fees and individual passenger levies, driven in part by new entrants to the airline market demanding lower fees and charges and more established carriers negotiating more competitive deals on renewals.

As a result of this downward pressure on revenue streams, Airports have been seeking to reduce their own operating costs over the past 3-5 years and have targeted their supply chain as part of this review process.

In addition, we have seen significant changes and movement in airport ownership over the last few years, which have resulted in knowledge transfer and gain throughout the industry. This has meant that TANS customers are significantly more educated, with an increasing amount of data to benchmark providers against. The recent publication of EU-wide TANS financial data also provides a significant benchmarking opportunity for customers. All of this has driven increased competition in the industry and has placed significant buyer power in the hands of the customer. This is, in turn, driving highly competitive contracts between TANS providers and customers, ensuring that the airports objective of securing the 'most economically advantageous contract' is being met through competitive forces in the market.

NATS has experienced this through a number of competitive tender processes that have been run and considers that this trend will continue and will increase for the foreseeable future.

5.1. Do you consider the process you entered was fair? If not why?

NATS considers the process to be fair.

5.2. Do you consider you will bid for other contracts?

Yes, NSL will continue to bid for other contracts which arise both within the UK and beyond the domestic market.

5.3. What was the estimated cost of the bid?

✂

5.4. What is the smallest contract that is likely to be of interest to you, in terms of revenue and movements?

NSL will review each contact opportunity on a case by case basis.

6. Further Comments?



Appendix D – BAL competitive tender process

Information request: **Birmingham (BAL) Tender Process 2012/3**

The aim of the questions below is to allow us to understand how you participated in the recent open tender processes. The questions form a broad guide to our areas of interest. We request that as well as either written or oral response that you provide documentary evidence through which you can support your response. The supporting material may be in the form of meeting notes, presentation or reports.

1. How did you find out about the opportunity to tender?

- Verbal communication through the normal business relationship with BAL as part of everyday business
- Discussions on future provision linked to the Airport's right to tender the TANS opportunity, at end of the then current contract
- BAL informed us formally as incumbent ANSP of their intention to go to tender as required in the contract current at the time
- Publication via Official Journal of the European Union (OJEU) Notice, 18th June 2012
- Pre-Qualification Questionnaire (PQQ) issued June 2012

2. What information were you provided with prior to submitting a bid?

- PQQ questionnaire comprised a soft copy document pack containing general instructions, scope, objectives, outline tender timescales, outline evaluation criteria, PQQ questions template, as well as background information considered useful by BAL
- Soft copy Invitation to Tender (ITT) document pack containing general instructions, scope, objectives, expected timescales, evaluation criteria, response templates, tender questions, compliance matrices, and pricing tables, as well as background information considered useful by BAL
- BAL responses to bidder's questions
- At Birmingham's request, NATS (as incumbent provider) facilitated a data room containing documents and procedures that a bidding ANSP would need access to in order to bid. The data was shared in two formats, electronic and hard copy. Access was managed via an NDA process.

2.1. Did you, as the bidder, understand the aims and objectives of the airport operator in holding an open tender?

The PQQ stated:

'The objective of the PQQ is to select those potential tenderers that are capable of ensuring the following:

- High standards of safety;
- Maintenance or, preferably, improvement of the quality of the Air Traffic Service provided;

- Increasing the Air Traffic Movement (ATM) capacity in a cost-effective way to realise the maximum potential runway utilisation to permit safe increases in traffic levels;
- Reducing costs through improved efficiency;
- Reducing, or eliminating, the potential for negative publicity of Birmingham Airport by facilitating a 'good-neighbour' policy through the mitigation of the various environmental impacts of aircraft operations in the locale.'

From the follow on Invitation to Tender (ITT), we understood that the intention was to achieve the **most economically advantageous contract** for BAL.

2.2. What was your understanding of the process prior to bidding?

Process timeline was outlined in the initial PQQ phase during June/July 2012.

Event	Date (Anticipated)
OJEU Notice	18 th June 2012
PQQ return date (latest)	23 rd July 2012
ITT Pack available for release (subject to PQQ conditions being met by applicants)	27 th August 2012
On site briefing meeting	10 th -12 th September 2012
Last date for submission of response to ITT	19 November 2012
Post tender interviews	3 rd -7 th January 2013
Selection of bidders invited to submit final bids	8 th January 2013
Opening of Data Room	23 rd January 2013
Closing of Data Room	29 th January 2013
Last date for submission of Final Bids	26 th February 2013
Contract award	12 th April 2013
Start of ATS provision	31 st March 2014

2.3. What was your understanding of the scope of service requirements prior to bidding?

From the PQQ phase we understood the scope to encompass a bid for one, either or both Lots.

The scope of the Lots was outlined in the initial PQQ, and was confirmed with the release of the ITT document as follows:

Lot 1 - Air Traffic Control (ATC)

- Provide aerodrome control instrument (ADI) and approach control surveillance (APS) rated services, to be located in the Control Tower Building. Air Traffic Services are required 24/7, 365 days a year.
- ADI & APS services shall be provided on a 24-hour basis and shall have authority over all aircraft arriving and departing at the Airport (within specified delegated limits), within the aerodrome traffic circuit, and all aircraft, vehicles and persons on the manoeuvring area and aprons.
- Compliance with all applicable international, European and UK CAA Regulatory Requirements, including those related to Safety Management Systems and integrating these with the requirements of the ATE service.
- An appropriate training regime that meets UK CAA Requirements and Recommendations.
- Meteorological reporting.
- The provision of added value services that are an essential and integral part of the provision of a safe and efficient ATS.
- The Bidders should be prepared to put forward innovative proposals, including – but not confined to - improving Air Traffic Movement (ATM) rate, general efficiency, and, Emergency (contingency) capability.
- The delivery of the service is to be undertaken in accordance with the agreed Service Level Agreement (SLA).
- Transition of the above from the incumbent service provider in a manner compliant with UK regulatory requirements and to the satisfaction of the UK Civil Aviation Authority (CAA).

Lot 2 - Air Traffic Engineering (ATE)

The Air Traffic Engineering service provider is required to maintain a suite of Air Traffic Control equipment including (but not limited to);

- Primary Radar
- Surface Movement Radar
- CAT IIIB ILS (x2)
- NDB
- DME
- IRVR System
- Tower Equipment and Systems
- Radio Communications Systems
- SAMOS
- DRDF

In addition, the Air Traffic Engineering service provider is required to manage third party supplies necessary for the delivery of ATC including SSR feeds and telecommunications services. Almost all of the ATC equipment is owned and provided by Birmingham Airport and the vast majority of it will have been replaced during the period 2009 – 2013, including both ILS, Primary Radar, IRVR, and a complete new Tower.

Bidders responding to the ATE requirement shall be responsible for providing:

- A planned and corrective maintenance engineering service covering all systems that support provision of the ATC service at BAL. The engineering service excludes the following:
 - Airfield Ground Lighting
 - Electrical Power Supplies up to room Mains Distribution Boards
 - Buildings and domestic facilities
 - Repair of Airfield Fibre Optic and copper data cables
- Engineering staff with competence to undertake the following tasks and functions:
 - Provide regular quantitative reviews of system performance against the operational safety and airport business requirements. Define and adapt the maintenance regime to ensure system performance is maintained.
 - Provide regular management reports with SLA and system performance data.
 - Technically accept new systems and changes to existing systems; ensuring compliance with regulatory requirements relating to maintenance, support and training.
 - Comply with all applicable international, European and UK CAA Regulatory Requirements, including those related to Safety Management Systems and integrating these with the requirements of the ANSP.
 - Manage the day-to-day engineering activities and tactically deal with unplanned tasks to ensure safe and efficient operations.
 - Manage accidents, incidents and similar occurrences in accordance with the CAA Requirements and Recommendations.
 - Deliver planned and corrective maintenance using staff approved by the CAA. Corrective maintenance to be undertaken in accordance with the agreed SLA.
 - Provide an appropriate training and competency regime that meets UK CAA Requirements and Recommendations.
- Bidders should be prepared to put forward innovative proposals, including – but not confined to – remote engineering support service, changes or provision of new equipment to reduce maintenance tasks and improve system availability and overall efficiency.
- Transition of the above from the incumbent service provider in a manner compliant with UK regulatory requirements and to the satisfaction of the UK CAA.

2.4. Do you consider that you had sufficient information on which to make a sensible bid?

Yes

3. Following expressions of interest were you invited to formally bid?

Yes

3.1. If the bid did not progress can you explain why this was the case?

N/A

3.2. How was information provided to you? Was it easy to access the relevant information?

Provided as ITT documentation emailed to NATS by Cyrrus, the company running the tender process for the airport. Clarification questions were posted to a web portal. BAL provided responses to bidder's questions. NATS did not have any problems accessing the relevant information.

3.3. After submitting a bid were you provided with feedback on potential improvements to your offer?

We were not provided with specific feedback. However, we were given an opportunity to revise our initial offer and to provide BAL with a Best and Final Offer (BAFO).

4. What challenges, if any, did you face in bidding?

✕

5. Overall how do you consider competitive tendering will develop in the UK?

Airports within the UK continue to face increasing pressure from their airline customers around both aircraft landing fees and individual passenger levies, driven in part by new entrants to the airline market demanding lower fees and charges and more established carriers negotiating more competitive deals on renewals.

As a result of this downward pressure on revenue streams, Airports have been seeking to reduce their own operating costs over the past 3-5 years and have targeted their supply chain as part of this review process.

In addition, we have seen significant changes and movement in airport ownership over the last few years, which have resulted in knowledge transfer and gain throughout the industry. This has meant that TANS customers are significantly more educated, with an increasing amount of data to benchmark providers against. The recent publication of EU-wide TANS financial data also provides a significant benchmarking opportunity for customers. All of this has driven increased competition in the industry and has placed significant buyer power in the hands of the customer. This is, in turn, driving highly competitive contracts between TANS providers and customers, ensuring that the airports objective of securing the 'most economically advantageous contract' is being met through competitive forces in the market.

NATS has experienced this through a number of competitive tender processes that have been run and considers that this trend will continue and will increase for the foreseeable future.

5.1. Do you consider the process you entered was fair? If not why?

NATS considers the process to be fair.

5.2. Do you consider you will bid for other contracts?

Yes, NSL will continue to bid for other contracts which arise both within the UK and beyond the domestic market.

5.3. What was the estimated cost of the bid?

✂

5.4. What is the smallest contract that is likely to be of interest to you, in terms of revenue and movements?

NSL will review each contact opportunity on a case by case basis.

6. Further Comments?

✂

Appendix E – GAL competitive tender process

Information request: **Gatwick Airport Ltd. (GAL) Tender Process 2013/4**

The aim of the questions below is to allow us to understand how you participated in the recent open tender processes. The questions form a broad guide to our areas of interest. We request that as well as either written or oral response that you provide documentary evidence through which you can support your response. The supporting material may be in the form of meeting notes, presentation or reports.

1. How did you find out about the opportunity to tender?

- Verbal communication through the normal business relationship with GAL as part of everyday business
- Discussions with GAL senior executives on future provision linked to their right to go to tender at end of existing contract
- GAL informed us formally as incumbent ANSP of their intention to go to tender as required in the contract current at the time
- Formal Official Journal of the European Union (OJEU) notice on 02/10/2013 inviting potential tenders to lodge an interest
- Pre-Qualification Questionnaire (PQQ) on 27/10/2013 via the Delta E-Sourcing procurement portal

2. What information were you provided with prior to submitting a bid?

- PQQ – This comprised a soft copy document pack containing general instructions, scope, objectives, indicative timescales, outline evaluation criteria, PQQ questions template, as well as background information considered useful by GAL.
- Soft copy Invitation to Tender (ITT) document pack containing general instructions, scope, objectives, expected timescales, evaluation criteria, response templates, tender questions, compliance matrices, and pricing tables, as well as background information considered useful by GAL.
- At Gatwick's request, NATS (as incumbent provider) facilitated a data room containing documents and procedures that a bidding ANSP would need access to in order to bid. The data was shared in two formats, electronic and hard copy. Access was managed via an NDA process.

2.1. Did you, as the bidder, understand the aims and objectives of the airport operator in holding an open tender?

We understood that the intention was to achieve the **most economically advantageous contract** for GAL.

2.2. What was your understanding of the process prior to bidding?

That the process would be run in a similar vein to previous tenders that had been facilitated by the Gatwick consultant, according to the indicative timeline published in the PQQ as below:

Event	Date (Anticipated)
OJEU Notice	2 October 2013
PQQ return date (latest)	25 November 2013
ITT release (subject to PQQ conditions being met by Applicants)	(29 November 2013)
Opening of Data Room	(16 December 2013)
Closing of Data Room	(20 December 2013)
Last Date for submission of response to ITT	(21 February 2014)*
Post Tender interviews	(4 March 2014)*
Contract Award	(4 April 2014)*
Start Of ATS Provision	(31 March 2015)*

✂

2.3. What was your understanding of the scope of service requirements prior to bidding?

✂

2.4. Do you consider that you had sufficient information on which to make a sensible bid?

✂

3. Following expressions of interest were you invited to formally bid?

Yes.

3.1. If the bid did not progress can you explain why this was the case?

N/A

3.2. How was information provided to you? Was it easy to access the relevant information?

Information was provided as soft copy ITT documentation by Cyrrus, the company running the tender process for the airport. Clarification questions were posted and responded to via a web portal. These questions and answers were shared with all bidders automatically. NATS did not have any problems accessing the relevant information.

3.3. After submitting a bid were you provided with feedback on potential improvements to your offer?

✂

4. What challenges, if any, did you face in bidding?

✂

5. Overall how do you consider competitive tendering will develop in the UK?

Airports within the UK continue to face increasing pressure from their airline customers around both aircraft landing fees and individual passenger levies, driven in part by new entrants to the airline market demanding lower fees and charges and more established carriers negotiating more competitive deals on renewals.

As a result of this downward pressure on revenue streams, Airports have been seeking to reduce their own operating costs over the past 3-5 years and have targeted their supply chain as part of this review process.

In addition, we have seen significant changes and movement in airport ownership over the last few years, which have resulted in knowledge transfer and gain throughout the industry. This has meant that TANS customers are significantly more educated, with an increasing amount of data to benchmark providers against. The recent publication of EU-wide TANS financial data also provides a significant benchmarking opportunity for customers. All of this has driven increased competition in the industry and has placed significant buyer power in the hands of the customer. This is, in turn, driving highly competitive contracts between TANS providers and customers, ensuring that the airports objective of securing the 'most economically advantageous contract' is being met through competitive forces in the market.

NATS has experienced this through a number of competitive tender processes that have been run and considers that this trend will continue and will increase for the foreseeable future.

5.1. Do you consider the process you entered was fair? If not why?

✂

5.2. Do you consider you will bid for other contracts?

Yes, NSL will continue to bid for other contracts which arise both within the UK and beyond the domestic market.

5.3. What was the estimated cost of the bid?

✂

5.4. What is the smallest contract that is likely to be of interest to you, in terms of revenue and movements?

NSL will review each contact opportunity on a case by case basis.

6. Further Comments?

✂

Appendix F - Evidence of competitive environment discussed within Board papers



Appendix G – Further Board extracts



Appendix H – Evidence of cost efficiencies and contract comparison data

