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### **TfW new rolling stock contracts**

I am writing in response to your Freedom of Information request which has been considered in accordance with the requirements of the Freedom of Information Act (2000) and our information access policy. I can confirm that we hold the information you require.

You asked for: **a copy of the contract which TfW are party to in relation to the supply of new rolling stock.**

Contracts for the provision of Transport for Wales' new rolling stock have been awarded CAF (Class 197 *Civity*), Stadler Rail (Class 231 FLIRT, Class 756 FLIRT and Class 398 *Citylink*) and Vivarail (Class 230 *D-Train*).

Transport for Wales considers that the contracts for this new rolling stock include commercially confidential and propriety information, the disclosure of which is considered likely to prejudice the commercial interests of CAF, Stadler and Vivarail.

The following exemptions to the right of access under the Freedom of Information Act (2000) have been applied:

- S.41 (Actionable Breach of Confidence). Some information in the contracts were supplied to Transport for Wales under an obligation of confidentiality. Transport for Wales' disclosure of this technical information would constitute an actionable breach of confidence.
- S43(1) & S43(2) (Prejudice to Commercial Interests). Information, including detailed breakdowns of pricing, mitigation of risk, identification of potential subcontractors, detailed technical specifications and information which would likely affect CAF, Stadler and Vivarail's competitive advantage. Some of the information, because of its technical nature, also constitutes a trade secret and is therefore subject to exemption under s43(1). Whilst we recognise that there will be a high level of interest in the more technical aspects of the contracts, we consider that even if the disclosure did not lead to action for breach of confidence, it would damage our ability to engage with suppliers in the future.

The use of this exemption is subject to an assessment of the public interest in relation to the disclosure of the information concerned. In this instance, factors in favour of disclosure, such as the general public interest in transparency and openness are outweighed by the potential damage to the effective operation of the bidding process. Disclosure would therefore be likely to prejudice Transport for Wales' ability to obtain best value from its procurement processes, leading to increases in the cost to the public, either through taxation or increased fares, and CAF, Stadler or Vivarail's ability to compete on a level playing field with other companies. There are a limited number of companies able to bid for such contracts and CAF,



Stadler and Vivarail are likely to find themselves competing for similar contracts in the future. In this instance we consider that the public interest lies in obtaining the best value from the market, whilst respecting the implied and explicit obligations of confidentiality which are created through the procurement process.

Transport for Wales recognises the need for openness and transparency by public authorities, but in this instance as disclosure of this information would be likely to prejudice Transport for Wales' ability to obtain best value from its procurement process and CAF, Stadler and Vivarail's ability to compete with other companies, it is considered that the public interest favours the use of the exemption.

Please see the enclosed information sheet for details of your right to appeal.

If you have any queries, please do not hesitate to contact Transport for Wales.

Yours sincerely

Jeremy Morgan

Freedom of Information Officer