



Date issued: 21 April 2020

Alstom due diligence

Thank you for your Freedom of Information (FOI) Act request of 6 April 2020. You requested the following information:

A copy of the due diligence assessments made on the company Alstom UK prior to awarding it the 'Class 175 trains' contract referred to on the Transport for Wales website: <https://news.tfwrail.wales/news/major-gbp-40-million-fleet-refresh-begins-at-transport-for-wales>

Due diligence assessments for the provision of cascaded rolling stock to form part of Transport for Wales Rail Services fleet were carried out as part of a procurement process. We consider that these due diligence assessments include commercially confidential and propriety information, the disclosure of which is considered likely to prejudice Alstom's commercial interests.

The following exemptions to the right of access under the Freedom of Information Act (2000) have been applied: S43(1) & S43(2) (Prejudice to Commercial Interests). This includes information which would likely affect Alstom's competitive advantage. Whilst we recognise that there will be a high level of interest in due diligence carried out, we consider that 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 Rail Services' 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 Alstom'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 Alstom 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 Alstom's ability to compete with other companies, it is considered that the public interest favours the use of the exemption.



You also requested a copy of the board minutes relating to any discussion on the company Alstom UK for the train contract. The procurement of Class 175 trains was carried out by Transport for Wales Rail Services.

To provide some context, Transport for Wales is a Welsh Government wholly owned not-for-profit company with a remit to deliver Welsh Government policy. Transport for Wales is the Welsh Government's agent with respect to the Grant Agreement between the Welsh Ministers and the Operator and Delivery Partner (ODP) for the Wales and Borders rail services and the delivery of the South Wales Metro. The Operator and Delivery Partner is a private sector organisation - KeolisAmey Wales Cymru Ltd which trades as 'Transport for Wales Rail Services'.

The Freedom of Information Act only applies to KeolisAmey Wales Cymru Ltd to the extent whereby it holds information on behalf of Transport for Wales in respect to its fulfilment of the requirements of the aforementioned Grant Agreement. KeolisAmey Wales Cymru Ltd's Board minutes do not fall into the category of information held on behalf of Transport for Wales. We do not therefore hold this information.

Transport for Wales' Board has not discussed Alstom UK. Transport for Wales Board minutes are available here: <https://trc.cymru/board-minutes>.

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

Transport for Wales