



Date issued: 25 June 2020

Class 175 contract

Thank you for your Freedom of Information (FOI) Act request of 24 June 2020. You requested the following information:

1. Did Alstom disclose to Transport for Wales under the Pre-Qualification Questionnaire for the 'Class 175 trains' contract (<https://news.tfwrail.wales/news/major-gbp-40-million-fleet-refresh-begins-at-transport-for-wales>)
 - (a) any relevant convictions for corruption, bribery, fraud or other offences listed in Section 57 of the Public Contract Regulations
 - (b) any investigations it is facing for any of the offences listed in section 57 of the PCR;
 - (c) any grave professional misconduct of which it has been found guilty.
2. What steps did you take to verify any information provided to you in relation to the answers given by Alstom with respect to the PQQ question above.
3. Did you require Alstom to declare whether it had self-cleaned as per Section 57 (13 ff) of the PCR in order to be eligible for bidding?
4. If you required Alstom to make a declaration in relation to question 3, what evidence did you seek from Alstom to verify this.

Pre-qualification questionnaires and any other related declarations 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 the content and analysis of these pre-qualification questionnaires and declarations as commercially sensitive 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 and its contractors, but in this instance as disclosure of this information would be likely to prejudice Transport for Wales Rail Services' 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.

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

Yours sincerely

Transport for Wales