



7th September 2021



Email: [REDACTED]

Re: FOI request IE_FOI_479

Dear [REDACTED],

I refer to your request dated 6th June 2021 made under the Freedom of Information Act 2014, which was received on by my office on the 8th June 2021, for records held by Iarnród Éireann.

Request:

“RECORDS RELATING TO IARNRÓD ÉIREANN’S TENDER FOR A SINGLE SUPPLIER FRAMEWORK AGREEMENT FOR THE DESIGN, BUILD, MANUFACTURE, SUPPLY, DELIVERY, TESTING AND COMMISSIONING OF NEW COMMUTER VEHICLES REQUIRED FOR THE EXPANSION OF THE DART NETWORK (I.E. CONTRACT REFERENCE NO. 7237 AND OJEU REFERENCE 2019/S 102-248433)

1. THE REPORT PREPARED BY IRISH RAIL IN ACCORDANCE WITH REGULATION 108 OF THE EUROPEAN UNION (AWARD OF CONTRACTS BY UTILITY UNDERTAKINGS) REGULATIONS 2016
2. THE TENDER EVALUATION REPORT PREPARED IN RELATION TO THE COMPETITION
3. ANY BOARD PAPERS SUBMITTED TO, AND ANY PRESENTATIONS MADE TO, THE IARNRÓD ÉIREANN BOARD AND MINUTES OF BOARD MEETINGS PERTAINING TO THE CONSIDERATION OF SUCH BOARD PAPERS AND PRESENTATIONS
4. ANY NOTES, DOCUMENTS AND CORRESPONDENCE SENT TO THE NATIONAL TRANSPORT AUTHORITY IN RELATION TO THE EVALUATION OF TENDERS AND THE AWARD OF THIS FRAMEWORK AGREEMENT
5. THE OPERATIONAL COST MODELS SUBMITTED BY EACH OF THE TENDERERS
6. COPIES OF TRD13 SUBMITTED BY EACH OF THE TENDERERS
7. THE SCORES ALLOCATED BY IARNRÓD ÉIREANN TO EACH OF THE TENDERERS FOR OPERATIONAL COST
8. ALL NOTES AND DOCUMENTS PRODUCED IN RELATION TO THE EVALUATION OF OPERATIONAL COST AND TRD13 FOR EACH TENDERER
9. ALL INTERNAL COMMUNICATIONS, EMAILS, NOTES AND REPORTS THAT RELATE TO THE UNUSUALLY WIDE DISCREPANCY IN ENERGY CONSUMPTION FIGURES CLAIMED BY DIFFERENT TENDERERS IN RESPONSE TO TRD13
10. ALL NOTES AND DOCUMENTS PERTINENT TO THE INDEPENDENT REVIEW OF OPERATIONAL COST MODELS SOUGHT BY IRISH RAIL

11. ANY COMMUNICATIONS BETWEEN IARNRÓD ÉIREANN AND THE SUCCESSFUL TENDERER FOLLOWING THE TENDER SUBMISSION DEADLINE, INCLUDING DETAILS OF ANY COMMUNICATIONS RELATING TO THE OPERATIONAL COST MODEL OF THE SUCCESSFUL TENDERER
12. COPIES OF ANY DIRECTION GIVEN TO INDIVIDUAL TENDERERS RELATING TO THEIR OPERATIONAL COST MODELS AND TRD13 VIA THE TENDER PORTAL OR OTHERWISE INCLUDING QUERIES THAT MAY HAVE BEEN RAISED AND RESPONSES PROVIDED BY IRISH RAIL.
13. THE IDENTITY OF ALL TENDERERS AND THEIR RANKING IN THE COMPETITION”

For the purposes of this letter, the documents requested above are defined as “the Requested Documents”.

Response:

I, [REDACTED], Decision Maker, have now made a final decision to refuse your request on 07th September 2021.

The purpose of this letter is to explain my decision. This explanation has the following parts:

- A. a schedule of the records covered by your request;
- B. an explanation of the relevant findings concerning the records to which access is denied, and
- C. a statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these three parts in turn.

A. Schedule of records

A schedule is attached to this letter and it shows the documents that Iarnród Éireann - Irish Rail considers relevant to your request. It describes each document and refers to the sections of the FOI Act which apply to prevent release. The schedule also refers you to sections of the detailed explanation given under heading B below, which are relevant to the document in question. It also gives you a summary and overview of the decision as a whole.

B. Findings, particulars and reasons for decisions to deny access

The sections of the FOI Act which can apply to deny access to documents are known as its exemption provisions. I have considered Section 30(1)(c), Section 35(1)(b) and Section 36(1)(b) and (c) as follows.

Section 30 - Functions and negotiations of FOI bodies

Section 30(1) of the FOI Act provides, inter alia, as follows:

- “(1) A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to -
-
- (c) disclose positions taken, or to be taken, or plans, procedures, criteria or instructions used or followed, or to be used or followed, for the purpose of any negotiations carried on or being, or to be, carried on by or on behalf of the Government or an FOI body.”

With regard to the Requested Documents, the information which I am considering under this exemption discloses positions taken, or to be taken, or plans, procedures, criteria or instructions used or followed, or to be used or followed, for the purpose of negotiations carried on by or on behalf of Iarnród Éireann in the context of an ongoing tender process.

In my opinion, the release of this information at this stage in the process would be contrary to the public interest as the tender process, including negotiations thereunder, is ongoing. I consider that access to the records would be harmful to the process and it is my opinion that this information should not be released. I have set out below the factors that I have considered in the public interest.

Public Interest Test

I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- The right of the public to have access to information
- The accountability of administrators and scrutiny of tender processes

In considering the public interest factors which favour withholding the records, I have taken account of the following:

- The need to preserve the confidentiality of positions taken, or to be taken, or plans, procedures, criteria or instructions used or followed, or to be used or followed, for the purpose of any negotiations carried on or being, or to be, carried on in respect of a tender process
- The release of records would be harmful to the tender process, including negotiations thereunder
- The release of records would impair future tenders
- Premature release could contaminate the tender process
- Premature release of records would impair the integrity of the tender process to a significant or substantial degree without countervailing benefit to the public.

Having balanced the foregoing factors, I place greater weight on the public interest favouring the withholding of the records and, therefore, my decision is to refuse access to the Requested Documents.

Section 35 - Information obtained in confidence

Section 35(1) of the FOI Act provides, inter alia, as follows:

“(1) Subject to this section, a head shall refuse to grant an FOI request if -

.....

- (b) disclosure of the information concerned would constitute a breach of a duty of confidence provided for by a provision of an agreement or enactment (other than a provision specified in column (3) in *Part 1* or *2* of Schedule 3 of an enactment specified in that Schedule) or otherwise by law.”

With regard to the Requested Documents, the confidentiality of the Invitation to Negotiate is provided for in, inter alia, Condition 5.5 of the Conditions of Tendering and the confidentiality of the evaluation is provided for in Condition 11.1 of the Conditions of Tendering.

I consider that disclosure of the documents requested would constitute a breach of a duty of confidence provided for in the Conditions of Tendering.

Public Interest Test

Section 35(1)(b) of the FOI Act does not provide for the application of the public interest test.

My decision is to refuse access to the Tender Documents.

Section 36 - Commercially sensitive information

Section 36(1) of the FOI Act provides, inter alia, as follows:

“(1) Subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains -

.....

- (b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, or
- (c) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.

With regard to the Requested Documents, the information which I am considering under this exemption contains (a) financial, commercial, technical and/or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, and/or (b) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.

In my opinion, the release of this information would be contrary to the public interest as the disclosure could (a) reasonably be expected to result in a material financial loss or gain to the person to whom the information relates,

or could prejudice the competitive position of that person in the conduct of that person's business and (b) could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates. The foregoing applies in the context of the current tender process, including (contractual) negotiations thereunder, which is ongoing, and also to future tender processes, the conduct, outcome and/or competitive nature of which could be distorted by the disclosure of the information in question.

I consider that disclosure of the records would be prejudicial within the meaning of Section 36(1)(b) and Section 36(1)(c) and it is my opinion that this information should not be released.

I have set out below the factors that I have considered in the public interest.

Public Interest Test

I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- The right of the public to have access to information
- The accountability of administrators and scrutiny of this tender processes

In considering the public interest factors which favour withholding the records, I have taken account of the following:

- The need to protect commercially sensitive information provided during a tender process
- The release of records could reasonably be expected to result in a material financial loss or gain or prejudice within the meaning of Section 36(1)(b) and/or Section 36(1)(c)
- The release of records would impair future tenders
- Premature release could contaminate the tender process
- Premature release of records would impair the integrity of the tender process to a significant or substantial degree without countervailing benefit to the public

Having balanced the foregoing factors, I place greater weight on the public interest favouring the withholding of the records and, therefore, my decision is to refuse access to the Requested Documents.

C. Right of appeal

If you are unhappy with this decision you may appeal it. In the event that you wish to make such an appeal, you can do so by writing to the FOI Unit, Corporate Communications, Iarnród Éireann - Irish Rail, Connolly Station, Amiens Street, Dublin 1 or by email to FOI@irishrail.ie. Your correspondence should include a fee of €30 for processing the appeal. Payment should be made by way of bank draft, money order, postal order or personal cheque made payable to Iarnród Éireann if you wish to make payment by electronic means please contact Ms. Sue Stanley(sue.stanley@irishrail.ie). You should make your appeal within 20 working days from the date of this notification. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of Iarnród Éireann-Irish Rail.

D. Publication

All non-personal FOI requests, will be recorded on an FOI disclosure log which will be published on the Iarnród Éireann - Irish Rail website in due course.

Should you wish to discuss the above, please contact the FOI Officer at [REDACTED] or [REDACTED]

Yours sincerely,

[REDACTED]

[REDACTED]

Decision Maker,

Procurement,

Iarnród Éireann

95	02/10/2020	Emails between Irish Rail and tenderer	2	Refuse	Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
96	02/10/2020	Emails between Irish Rail and tenderer	5	Refuse	Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
97	30/09/2020	Emails between Irish Rail and tenderer	3	Refuse	Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
98	29/09/2020	Emails between Irish Rail and tenderer	4	Refuse	Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
99	29/09/2020	Emails between Irish Rail and tenderer	4	Refuse	Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
100	25/09/2020	Emails between Irish Rail and tenderer	2	Refuse	Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
101	11/12/2020	Cost Model Clarifications request	2	Refuse	Section 36 (1) (A)(B), Section 35(1)	Information obtained in confidence Commercially sensitive information
102	11/12/2020	Cost Model Clarifications request	2	Refuse	Section 36 (1) (A)(B), Section 35(1)	Information obtained in confidence Commercially sensitive information
103	11/12/2020	Cost Model Clarifications request	2	Refuse	Section 36 (1) (A)(B), Section 35(1)	Information obtained in confidence Commercially sensitive information
104	11/12/2020	Cost Model Clarifications request	2	Refuse	Section 36 (1) (A)(B), Section 35(1)	Information obtained in confidence Commercially sensitive information
105	14/12/2020	Cost Model Clarifications request reminder	2	Refuse	Section 36 (1) (A)(B), Section 35(1)	Information obtained in confidence Commercially sensitive information
106	14/12/2020	Cost Model Clarifications request reminder	2	Refuse	Section 36 (1) (A)(B), Section 35(1)	Information obtained in confidence Commercially sensitive information
107	14/12/2020	Cost Model Clarifications request reminder	2	Refuse	Section 36 (1) (A)(B), Section 35(1)	Information obtained in confidence Commercially sensitive information
108	14/12/2020	Cost Model Clarifications request reminder	2	Refuse	Section 36 (1) (A)(B), Section 35(1)	Information obtained in confidence Commercially sensitive information
109	10/06/2021	Overall Ranking	1	Refuse	Section 30(1) Section 36 (1) (A)(B)	Functions and negotiations of a body Commercially sensitive information
110	10/03/2021	Evaluation Report	293	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
111	01/04/2021	Email from Peter Smyth re: Board Approvals	1	Refuse	Section 30(1)	Functions and negotiations of a body
112	01/04/2021	Decisions paper	2	Part grant		Other information not relevant to request
113	01/03/2021	Award paper for the Board	11	Part grant	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
114	17/05/2021	FW_Redacted Provisional Award (1)	3	Refuse	Section 30(1)	Functions and negotiations of a body
115	17/05/2021	FW_Redacted Provisional Award	4	Refuse	Section 30(1)	Functions and negotiations of a body
116	22/04/2021	FW_NEW	1	Part grant		Personal Information
117	26/11/2020	RE_7237 (Commuter Fleet Framework) - Stage 1 Compliance Verification	97	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
118	21/04/2021	RE_New	3	Part grant		Personal Information
119	26/11/2020	7237_Stage_1_Verification_30_09_2020_Final	94	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
120	15/01/2021	Draft evaluation report	1	Part grant		Personal Information
121	05/08/2020	TRD 13 Vendor 1	2	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
122	07/08/2020	TRD 13 Vendor 2	5	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
123	07/08/2020	TRD 13 Vendor 3	3	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
124	16/07/2020	TRD 13 Vendor 4	2	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
125	10/06/2021	Operational_Cost_Scoring	2	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
126	11/06/2021	Vendor 1 cost model	4	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
127	11/06/2021	Vendor 2 cost model	4	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
128	11/06/2021	Vendor 3 cost model	1	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
129	11/06/2021	Vendor 4 cost model	4	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
130	16/03/2021	Capex_DART+ Fleet Framework Contract First Call off Order_DRAFT 12b	15	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
131	21/04/2021	FW_NEW	1	Refuse	Section 30(1)	Functions and negotiations of a body
132	13/05/2021	FW_Redacted Provisional	1	Part grant		Personal Information
133	11/01/2021	Cost Model Clarifications	2	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
134	09/12/2020	Cost Model Meetings	3	Refuse	Section 36 (1) (A)(B), Section 35(1)	Information obtained in confidence Commercially sensitive information
135	06/11/2020	RE_Operational Cost Model - evaluation	3	Part grant		Personal Information
136	10/12/2020	Cost Model Presentations 09 122020	4	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
137	19/06/2020	Appendix_4_Op_Cost_Model_Live_v2.0	4	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
138	26/11/2020	Aux load	1	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
139	26/11/2020	Aux loads	1	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
140	10/12/2020	Cost Model Presentations 10122020	3	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
141	10/12/2020	Cost Model Presentations 09122020	4	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
142	20/11/2020	Energy Cost Model	3	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information

143	11/12/2020	FW Cost Model Clarifications	3	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
144	23/11/2020	FW_ Energy Cost Model	3	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
145	28/10/2020	Operational Cost Model - evaluation	1	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
146	30/11/2020	operational cost models 1	1	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
147	05/11/2020	Operational Cost Models 3	2	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
148	05/11/2020	Operational Cost Models	2	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
149	14/01/2021	Queries for bidders following Cost Model Clarification (2)	3	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
150	14/01/2021	Queries for bidders following Cost Model Clarification	3	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
151	11/12/2020	Re Cost Model Clarifications	3	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
152	23/11/2020	RE Energy Cost Model	3	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
153	01/12/2020	RE operational cost models	2	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
154	10/12/2020	RE Questions for bidders	5	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
155	10/12/2020	RE Questions for bidders - 10.12.2020	5	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
156	01/12/2020	RE_Bidder presentations on LCC Models - items to be addressed	4	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
157	11/12/2020	Re_Cost Model Clarifications	3	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
158	25/11/2020	RE_Energy Cost Model	4	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
159	01/12/2020	RE_operational cost models 2	2	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
160	01/12/2020	RE_operational cost models	2	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
161	28/05/2021	RE_Re_7237_GM – Comr	7	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
162	10/12/2020	Cost Model Presentations 10122020	2	Refuse	Section 30(1) Section 36 (1) (A)(B), Section 35(1)	Functions and negotiations of a body Information obtained in confidence Commercially sensitive information
163	27/07/2020	RE Draft Evaluation Process	6	Refuse	Section 30(1)	Functions and negotiations of a body
164	17/05/2021	RE Redacted Provisional Award 1	5	Part grant		Personal Information
165	17/05/2021	RE_Redacted Provisional Award	4	Refuse	Section 30(1)	Functions and negotiations of a body
166	17/05/2021	FW Redacted Provisional Award	4	Refuse	Section 30(1)	Functions and negotiations of a body

Iarnród Éireann board - Decisions made

at the 349th meeting of the board held on
Tuesday 30th March 2021

Item	Status
[redacted]	
(a) [redacted]	
(b) [redacted]	
2. Capital Expenditure	
(a) [redacted]	
(c) [redacted]	
(d) [redacted]	
(e) [redacted]	
(f) [redacted]	
(g) [redacted]	
(h) Support the initial call off order for 6 EMUs and 13 BEMUs, 3 train simulators, an Automatic Visual Inspection System and other associated project costs	Approved
(i) [redacted]	

Item

Status

Item	Status
(a)	
(b)	
(c)	
(d)	
(e)	
(f)	
(g)	
(h)	
(i)	
(j)	
(k)	
(l)	
(m)	
(a)	
(b)	
(c)	
(d)	
(e)	
(f)	

<i>Author:</i> Category Manager – Rolling Stock	Commuter Fleet Framework Agreement and Technical Support and Spares Agreement	<i>Reviewed by:</i> Chief Mechanical Engineer
<i>Submitted by:</i> Chief Procurement Officer		<i>Approved by:</i> Executive Group
Contract Award		

1. **DECISION SOUGHT**

The approval of the IÉ Board is sought to enter into a Single Party Framework Agreement (SPFA) with Tenderer A to allow the procurement of up to 750 vehicles in either Full Length Unit (10 vehicle) or Half Length Unit (5 vehicle) configuration; and either Battery Electrical Multiple Unit (BEMU) or Electrical Multiple Unit (EMU) variants.

The SPFA will operate for a period of ten years. The SPFA is a contract with no financial commitments and is therefore cost neutral.

The approval of the IÉ Board is also sought to award the first call off contract from the SPFA for the procurement of 13 x Half Length Battery Electrical Multiple Units (HLU-BEMU) and 6 x Half Length Electrical Multiple Units (HLU-EMU). In addition, the first call off contract will include the provision of Capital Spares, Train Simulation and Automatic Vehicle Inspection System (AVIS) equipment to support the training, maintenance and operational activities.



Funding for the capital expenditure element is provided by the NTA under the DART+ Programme and the contract execution is subject to Government approval of the Preliminary Business Case and any other requirements of the Public Spending Code in addition to satisfactory resolution of the TPS risks.

2. BACKGROUND

Due to the expansion of the existing DART network to meet with the rapid growth in passenger demand and to allow for the replacement of older rolling stock, IÉ have a requirement to enter into a single party framework agreement for the supply of versatile commuter vehicles of an Electrical Multiple Unit and/or Bi-Mode configuration. Bi-Mode configured vehicles will be a battery variant to allow the primarily electric vehicles to travel on small sections (80km to 100km) where no 1500v OHLE infrastructure is present.

The full complement of vehicles will be drawn down via multiple call-offs over the 10 year term of the agreement.

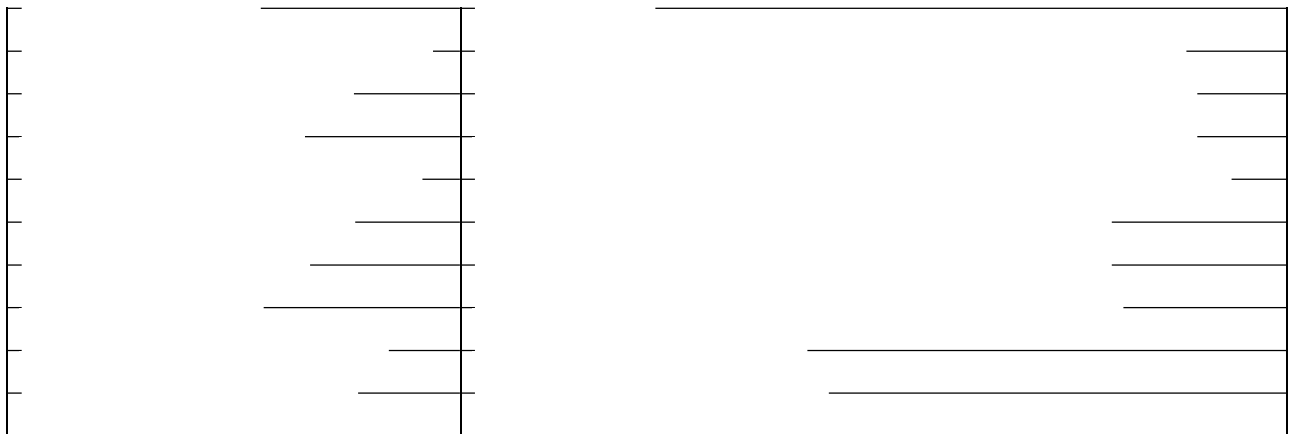
3. PROCUREMENT PROCESS

3.1 Selection Criteria

The Selection Criteria as set out in Appendix 1 were approved at IÉ Board in March 2019.

3.2 Award Criteria

The Award Criteria used as set out in Appendix 2 were approved at IÉ Board in August 2019.

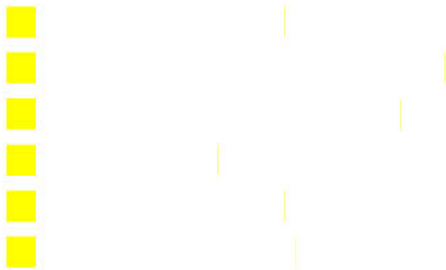


4. **TENDER PROCESS**

4.1 **Pre-Qualification**

On the 25th May 2019, a contract notice was published to the Official Journal of the European Union under the Negotiated Procedure (TED reference 2019/S 102-248433) seeking expressions of interest from rolling stock manufacturers to participate in a tender process to establish a 10 year, single party framework agreement, for the provision of electrical multiple units and battery/electrical multiple units.

Iarnród Éireann received _____ in the tender process. All submitted pre qualification questionnaires were evaluated objectively against the published selection criteria which were approved by the Iarnród Éireann Board in March 2019.



5. TENDER EVALUATION

**Chief Procurement Officer,
Inchicore.**

Appendix 1**SELECTION CRITERIA**

Minimum Qualification Criteria (Pass/Fail)	
Criterion	Explanation
Turnover	Applicants will be required to demonstrate that they have had a turnover in excess of €500M in each of the previous 3 years trading.
Accounts	Applicants must provide audited accounts for each of the previous 3 years. The audit opinion contained therein requires to be unqualified and must confirm that the financial statements give a true and fair view and have been properly prepared.
Financial Capacity and Health	Applicants must demonstrate that they have the financial capacity to design, manufacture, commission and support the required rolling stock over the duration of the framework agreement and all commitment undertaken during the framework agreement. Applicants to demonstrate by way of cash flow and profitability statements over previous 3 years trading and/or possess a long term investment grade rating from a recognised business credit research and ratings firm.
Quality Management System	Applicants must have an externally audited Quality Management System to ISO 9001 or equivalent.
Environmental Management System	Applicants must have an externally audited Environmental Management System to ISO 14001 or equivalent.
Health and Safety Management System	Applicants must have an externally audited Occupational Health and Safety Management System to ISO 45001, OHSAS 18001 or equivalent.

Further Shortlisting Criterion – A minimum score of 40% must be achieved in each of the criteria below	Weighting
Criterion B - Relevant Experience Applicants are required to demonstrate, by way of 5 detailed case studies (4 EMU and 1 Bi-Mode), that they have the required experience to manufacture and support highly reliable vehicles of the same configuration type required by IÉ.	50%
Criterion B1(a) – Vehicle Configuration and Type (EMU) <i>Demonstration that the applicant has experience in the manufacture of EMU Commuter/Metro Heavy Rail type fleets. (4 Case Studies Required)</i>	5%
Criterion B1(b) – Vehicle Configuration and Type (Bi-Mode) <i>Demonstration that the applicant has experience in the manufacture of Bi-Mode Commuter/Metro Heavy Rail or Light Rail type fleets. (1 Case Study Required)</i> <i>Due to the recent development of BEMU, IÉ will accept any form of Bi-mode multiple unit as a case study (i.e. BEMU, battery-diesel hybrid, diesel-electric bi-mode).</i>	5%
Criterion B2 – Reliability Targets <i>Demonstration that the applicant has met or exceeded the contractual vehicle reliability targets in the case studies put forward under Criterion B1 (including reliability growth).</i>	10%
Criterion B3 – Provision of Maintenance Support <i>Demonstration that the applicant has experience in the provision of maintenance support at the client's premises.</i>	10%

<p>Criterion B4 – Conformance to TSI and APIS</p> <p><i>Demonstration (with verifiable evidence) that the applicant has the ability and competence to design and manufacture vehicles which conform to EU Technical Specifications for Interoperability and also to achieve a successful APIS application. Equivalent non-EU standards will be accepted provided they are supported by an EU based notified body who can demonstrate its equivalence and ability to be used to support a successful APIS application.</i></p>	10%
<p>Criterion B5 – Delivery Targets</p> <p><i>Demonstration that the applicant has met or exceeded the contractual vehicle delivery targets in the case studies put forward under Criterion B1.</i></p>	10%
Criterion C – Capacity and Resources	15%
<p>Criterion C1 - Production Capacity</p> <p><i>Demonstration that the applicant has the required capacity to manufacture 25 x 4 Car Sets by the end of 2023 based on a contract commencement date of June 2020.</i></p>	5%
<p>Criterion C2 - Technical, Manufacturing and Labour Capacity</p> <p><i>Applicant to provide a full listing of manufacturing locations at its disposal as well as listing the technical capabilities available at each location.</i></p>	5%
<p>Criterion C3 – Current Contractual Commitments</p> <p><i>Applicant to provide full visibility of current and pipeline contractual commitments aligned with the information provided under criterion C1 and C2.</i></p>	5%
Criterion D – Quality Management	15%
<p>Criterion D1 – Quality Management System</p> <p><i>Applicant to provide an executive summary of their Quality Management System demonstrating how it is aligned with the manufacturing of rolling stock.</i></p>	5%
<p>Criterion D2 – Production Management System and Supply Chain</p> <p><i>Applicant to provide an executive summary of their Production Management and Supply Chain management processes demonstrating how they are aligned with the supply of safety critical components.</i></p>	5%
<p>Criterion D3 – Technical Control System</p> <p><i>Applicant to provide an executive summary of their Technical Control System demonstrating how it is aligned with the manufacture of rolling stock.</i></p>	5%
<p>Criterion E– Health and Safety Policy</p> <p><i>Applicants are required to demonstrate their approach to managing the health and safety of their workforce and to demonstrate that they have robust health and safety processes and procedures in place up to and including ISO 45001 or OHAS 18001.</i></p> <p><i>Full accident statistics to be provided of the previous 5 years trading.</i></p>	5%
<p>Criterion F – Environmental Management Policy</p> <p><i>Applicant to provide an executive summary of their Environmental Management System and provide a copy of their current externally audited Environmental Management System certification to ISO 14001 or equivalent.</i></p>	5%

<p>Criterion G – Sustainability Management Policy <i>Applicant to provide details of their approach to sustainability within the supply chain. Where applicable, applicant to demonstrate working towards or having achieved ISO 26000 or equivalent.</i></p>	<p>5%</p>
<p>Criterion H - Contract Dispute and Industrial Relations History <i>Applicants are required to provide details of their internal IR history to demonstrate the risk profile of the organisation.</i></p>	<p>5%</p>
<p>Total</p>	<p>100%</p>

Appendix 2

AWARD CRITERIA

Due to the detailed evaluation in respect of the pass/fail criteria it is proposed that the further qualitative criteria will not have a minimum score to be achieved. The following award criteria are proposed for the above tender competition:

Mandatory Criteria (Pass/Fail)	
Criterion	Conformance with the requirements from the technical specification

Upon satisfying the pass/fail criteria, the following further criteria will then apply:

Life Cycle Costing:	50%
Capital cost of vehicles	25%
Provision of spare parts to maintain the fleet over a 35 year vehicle life	10%
Labour costs to maintain the fleet over a 35 year vehicle life	7.5%
Operational cost of vehicles over a 35 year vehicle life	7.5%
Technical Characteristics of the Vehicles	42.5%
Overall Quality of Passenger Environment	10%
Optimising Platform Train Interface	5%
Floor Height	7.5%
Vehicle Accessibility	2.5%
Maintainability	5%
Sustainability	2.5%
Optimisation of Passenger Area	2.5%
Vehicle Aesthetics	2.5%
Project Delivery	7.5%
Lead Time Proposal	5%
Project planning methodology	2.5%
Vehicle Performance – Improvement on sectional running times	5%
Total	100%

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Draft evaluation report
Date: 15 January 2021 10:25:10

[REDACTED]

I asked NTA this morning at the DART+ board if they needed to see a draft of the tender evaluation report and they have advised that they **do not**.

[REDACTED]

[REDACTED],

Head of Projects,

CME Department,

[Iarnród Éireann \(Irish Rail\)](#)

☎: [REDACTED]

📧: [REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Wednesday 21 April 2021 17:00
To: [REDACTED]
Subject: FW: New
Attachments: 7237_Sample_Redacted_07_05_2021_v1.3.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: New Fleet

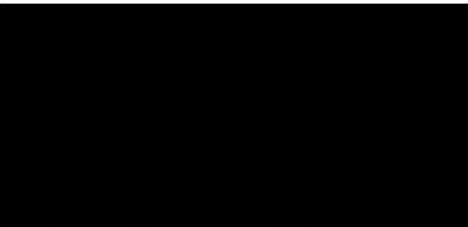
[REDACTED]

At the DART+ Board meeting on the 9th of April the NTA made a request to be provided with an “anonymised” copy of one of the regret letters to be issued to the unsuccessful tenderers in the DART+ Fleet tender process.

A sample copy of the letter (anonymised version) is attached to this email as requested. Please treat this letter as confidential and ensure that it is not distributed outside of the DART+ Board members so as to protect the identity of the tenderer in question.

If you need anything further please do not hesitate to contact me.

Best Regards,



From:
To:
Cc:
Subject: RE: Operational Cost Model - evaluation
Date: Friday 6 November 2020 09:18:33
Attachments: [image001.jpg](#)

Hi

That's done.

Regards

From:
Sent: Thursday 5 November 2020 11:12
To:
Cc:
Subject: RE: Operational Cost Model - evaluation

Thanks again
Could I request 2 additional folders to be set up, both with the same permissions as the one previously created.

Labour Cost Models
TSSSA Cost Models

From:
Sent: Wednesday 28 October 2020 14:00
To:
Cc:
Subject: RE: Operational Cost Model - evaluation

Hi

Folder created & permissions assigned.

Regards

From:
Sent: Wednesday 28 October 2020 13:21
To:

Cc:

Subject: RE: Operational Cost Model - evaluation

Thanks.

The TRD that relates to the supporting documentation for the operational cost model is TRD13 which is available in the Stage 1 folder on Teams.

The respective operational cost model submissions will be moved to a new folder in Stage 2 titled 'Operational Cost Models' and I will ask [redacted] to create the folder so that only [redacted] and [redacted] have access.

We should have this in place shortly for you.

@ [redacted], could you set up a folder called 'Operational Cost Models' inside the existing folder 'Stage 2 Qualitative Evaluation' on the teams site please. Also, if you could restrict access to myself, [redacted] please.

Thanks,

From:

Sent: Wednesday 28 October 2020 10:36

To:

Cc:

Subject: Operational Cost Model - evaluation

Hi

As discussed on the call, I nominate [redacted] to take part in the evaluation of the operational cost model along with myself, [redacted]. We can all review the submissions to ensure they are valid. Jacobs carried out quite an amount of work on simulations when we were preparing the tender, so we may choose to include a Jacobs representative at a later date if we need to validate the submitted simulations further.

Regards

-

Project Manager, New Fleet Project

Technical Services
CME Dept.
Iarnród Éireann,
Inchicore Works,

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