PUBLIC SECTOR BIDDER : DISCUSSION WITH FERRIES DIVISION

13 February 2018
Attendees: [redacted]

Group structure
See scanned organogram at erdm ref **x**.

DML board comprises six non-executive directors and two executive directors (Chief Executive and Finance Director). A new Chief Executive is to be appointed soon, and it is expected that they will have an 'outward-focus'.

[redacted]

Rail expertise would need to be brought in. [redacted]

Public appointments usually last three years, but can be extended. [redacted]

[redacted]

Further work to be commissioned via consultants, to determine whether a DML bid would comply with MEIP.

Board engagement
There are Articles of Association for DML, registered with Companies House. [redacted]

[redacted]

Procurement

Seek a copy of the current, un-redacted CalMac contract. [redacted]

Aims

Immediate: ensure that any advice to Ministers on a suitable body to bid includes an element of horizon-scanning, to check for any potential future pitfalls.

Longer-term: inform the development of the procurement exercise in future, to ensure a level playing field.

Questions

[redacted]

Sources

- ScotRail franchise three PQQ
- F3 model answer
- DML CHFS bid
- Rail colleagues
- Ferries colleagues –

Technical and Professional Ability

E1 Experience and contract examples

Up to three relevant contracts over the last three years.

[redacted]

E2 Staffing

[redacted]

E3 Safety record

[redacted]

Relevant industry performance and experience

[redacted]

[redacted]

G1: Customer results

[redacted]

[redacted]

G2 Key results

[redacted]

[redacted]

G3 People results

[redacted]

[redacted]

-

G4 Society results

[redacted]

[redacted]

Franchise specific – evidence of experience of…

[redacted]

H1 Opportunities to collaborate and co-operate with industry

[redacted]

H2 Maximise capacity use, particularly off-peak and rural

[redacted]

Discussion with TS Ferries

[redacted]

H3 Wider community benefits

[redacted]

Discussion with TS Ferries

[redacted]

H4 Accessibility for those with disabilities or mobility restrictions

[redacted]

Discussion with TS Ferries

[redacted]

H5 Planned and unplanned disruption

[redacted]

H6 Improved connections

[redacted]

[redacted]

H7 Improving end-to-end journey times and connections

[redacted]

H8 Procurement and introduction of new-build rolling stock

[redacted]

[redacted]

H9 Improve inter-city services in Scotland

[redacted]

Hi

Apologies for the delay – I have gone through the document and made a small number of amendments to the objective file. I think it might be worth a further discussion once things are clearer [redacted]

Regards

From
Sent: 05 March 2018 15:58
To:
Cc:
Subject: DML / ScotRail PQQ - document for review by close on Wednesday

Hi XX,

I've attached a note of discussions to date on whether [redacted] This was compiled with help from [redacted] Grateful if you'd cast an eye over it, and let me know by close on Wednesday if you have any further comments, to allow us to feed conclusions into our wider work. I'm happy to discuss in person if easier.

[redacted] further comments/clarifications are welcome.

<< File: A20337858.obr >>

Regards,
[redacted]

| Buchanan House | 58 Port Dundas Road | G4 0HF

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DML : STATE AID DISCUSSION

Discussion with [redacted] 12 March 2018 :

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

12 March 2018

PfG update – Public sector bidder for future rail franchises

Programme for Government commitment : "In 2017-18 identify a suitable public body to make a robust bid for the next Scotrail franchise contract and confirm the next steps for the preparation of a bid".

Following a robust options appraisal exercise last year [redacted] we expect to provide advice in April identifying David MacBrayne Ltd (DML) as a [redacted] public body to make a potential bid for a rail franchise. [redacted]

Hello
Thanks for your e-mail. Yes, I have read the TSSA/ Common Weal report – I found it very interesting. I thought that there was a fair amount of common ground between the main thrust of the report and the Scottish Government's position on rail. Some points of difference as well, of course.

The timeline for implementation will as ever depend on the timing of the next franchise competition. As you know, there is a break clause which could be invoked in 2020 to terminate the contract in 2022. Alternatively, the contract could run to its natural end in 2025. I'm afraid it's impossible to say at the moment whether the break clause would be invoked. At present we expect the current ScotRail franchise to continue to its planned expiry date of 2025, and we are undertaking early work on the public sector bidder as a contingency.

We are continuing to firm up the approach to delivering the manifesto commitment. Mr Yousaf is expected to make an announcement in this regard in late Spring. Regards.

| Rail Futures Team Leader | Rail Directorate
transport.gov.scot

Transport Scotland, Buchanan House, 58 Port Dundas Road, Glasgow, G4 0HF

Transport Scotland, the national transport agency
Còmhdhail Alba, buidheann nàiseanta na còmhdhail

From: Bring Back British Rail [
Sent: 17 March 2018 08:40
To:) (Trans)
Cc:
Subject: Public Sector ScotRail

Dear,

I'm following up on our discussions last year regarding a public sector ScotRail.

We contributed to the TSSA and Commonweal Report which was published in November (see attached). I hope you've had a chance to read that?

We're wondering what your timeline for implementation is? We know there's the possibility for terminating Abellio's contract in 2020 if they fail to meet standards. Could you say how likely this? And how your proposals are shaping up?

Many thanks,

info@bringbackbritishrail.org
www.bringbackbritishrail.org

Rail

Buchanan House, 58 Port Dundas Road, Glasgow G4 0HF

TRANSPORT
SCOTLAND
CÒMHDHAIL ALBA

Your ref:
n/a
Our ref:
n/a

Date:
19th March 2018

Thank you for phone enquiry to me on 21st February 2018 regarding renationalisation of the railways in Scotland, longer terms plans to electrify the network in Scotland and ScotRail services. Information on these topics is also included in the Transport Scotland Corporate Plan 2017- 2020 which I sent to you at the end of last year.

Rail Renationalisation

Rail franchising and competition policy are matters reserved to the UK Government. Existing legislation (the Railways Act 1993) does not allow for rail nationalisation – it requires us to tender the franchise for passenger services through open competition. However, a recent amendment to that legislation now allows public sector bodies to participate alongside private sector businesses in franchise competitions where the franchise is let by Scottish Ministers. The Scottish Government is committed to enabling a public sector operator to bid for future rail franchises in Scotland. Consideration is currently being given to the suitability of a range of existing Scottish public bodies and the steps required to create a new public sector body, if it is necessary to do so. A number of options exist and, while this work is underway, we continue to listen carefully to those working and travelling on our railways.

Electrification

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

ScotRail Services

[redacted]

[redacted]

[redacted]

I hope this helpful.

Yours faithfully,

[redacted]

Note of Meeting – TSSA, Common Weal and Minister for Transport & Islands – Wednesday 19 April 2018; 15:45 – 16:30.

Present:
Minister for Transport and the Islands
Manuel Cortes (MC), TSSA General Secretary
[redacted] (RJ), TSSA
[redacted] (CD), Common Weal
[redacted]

Introduction

1. The Minister welcomed the TSSA and Common Weal representatives to parliament, adding that he had a lot of time for Common Weal as an organisation, and that the Report contained much useful material on which agreement existed.

CCTV Centres and ScotRail and TSSA Staff

[redacted]

Joint TSSA & Common Weal Report – A public future for Scotland's Railways

4. The meeting had been arranged to provide an opportunity for the Common Weal and the TSSA to convey to the Minister key messages contained within the Report and transport issues generally. Consequently, during the course of the meeting, they raised and discussed a number of topics with the Minister such as:

- politics, principles and opposition to the UK's commercial rail franchising model
- the relative merits of ownership versus leasing of rolling stock
- profitability of TOCs, including Abellio
- levels of actual investment by TOCs in rail, as opposed to what is reported by TOCs and bearing in mind subsidies received
- historical misrepresentation of the lack of effectiveness of British Rail
- ongoing revenue streams generated in the Rail industry (unlike other public services, such as health) and how those could be applied

[redacted]

- the benefits of greater integration of public transport in Scotland (rail, buses, and ferries)
- the significance or otherwise of Ministers invoking the ScotRail break-clause, within the current legal framework which requires a competitive process
- Brexit and its impact in terms of State aid, competition and procurement
- "value capture" within the rail industry
- State aid and the (relatively greater) funds spent by other European countries

5. The Minister asked the TSSA and Common Weal to comment on some of the risks associated with a public sector operator, in particular how to future proof against funding pressures from other parts of the public sector, potentially leading to lack of investment in rail. [redacted] Common Weal suggested greater degree of separation.

[redacted] The Minister provided an update on the work undertaken in respect of the public sector bid, outlining avenues being explored and complexities involved. The Minister noted that five possible options had been considered – David MacBrayne Ltd; a new public body; a joint venture; [redacted] The Minister explained that due to its commercial nature he was restricted in what could be said publicly. [redacted]

7. An example of State aid complexity is that the Scottish Government would risk penalty and being required to meet other bidders' costs if it were proven that State Aid had been unlawfully provided to a bidder. All agreed that it was likely that private sector bidders would not hesitate to challenge any public sector bid that they considered potentially non-compliant.

8. MC repeated his fundamental principle that since the UK legislation required a time-limited commercial contract, this conflicted with TSSA support for a nationalised rail industry. From the TSSA viewpoint, however, any nationalised entity must provide excellent services and staff relations and value for money for passengers in its fares.

9. The Minister stated that any public bid submitted must be robust and with a realistic opportunity of winning – not merely a paper exercise. [redacted] TSSA and the Common Weal agreed on the benefit of taking sufficient time to achieve a good outcome and that a [redacted] would be acceptable to them on that basis. The Minister said he would make an announcement in Parliament before the summer recess, and would convene a meeting of the stakeholder group after recess. Officials would update MC prior to any announcement.

TS Rail
19 April 2018

Mr Yousaf is content

Private Secretary to the Minister for Transport and the Islands

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From:
Sent: 19 April 2018 14:31
To: Minister for Transport and the Islands
Cc: PS/Transport Scotland;

Subject: RE:TSSA and Common Weal meeting on Wednesday 18th April, Scottish Parliament - Note of meeting

PS/Minister for Transport,
Minute of yesterday's meeting for the Minister to note. This is for internal recipients only. Circulation list shortened to reflect relevance.

<< File: rail policy - public sector bidder - note of meeting with TSSA & Common Weal on 18 April - 19 April 2018.docx >>

[redacted]
Policy Officer, Rail Futures, Rail Directorate

Rail Public Sector Bidder – Cabinet Paper Process

Stage 2	Thursday 31 May	Draft Cabinet paper issued to TS & SG officials
Stage 3 (initial clearance)	Tuesday 5 June [by 11:30am] Bill on train – To provide Bill with short summary of key comments received.	Lead Director to send Cabinet Paper to MT&I, copied to Cab Sec. for comments
	Wednesday 6 June	Comments received from MT&I & Cab Sec.
Stage 4 (pre-cabinet consideration)	Wednesday 6 June or Thursday 7 June for return on 11 / 12 June	Director to issue e-mail with Cabinet Paper to Full Cabinet (See attached)
Stage 5 (final clearance)	Tuesday 12 (11-11:30 am; 5-6pm) 13th – Leeds (9-10am free)	Director to send Cabinet Paper to Cab Sec & Lead Minister
	Thurs 14 June	Private Office send Cabinet Paper to Cabinet Secretariat to issue
Stage 6 (cabinet consideration)	Mon 18 June	Discussion at travelling Cabinet (prep speaking note for HY)

PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4

First Minister
Deputy First Minister and other Cabinet Secretaries
Minister for Parliamentary Business
Lord Advocate

I attach a draft Cabinet paper which has been agreed by the Minister for Transport and the Islands and which is intended for consideration by Cabinet on Monday 18 June 2018.

The paper asks Cabinet to agree a proposed approach to fulfilling the manifesto commitment to take steps to ensure that a public sector operator is able to bid for a future rail contract and that there is a public sector body able to do so. The paper sets out the rationale for the approach being adopted and the costs and risks involved. David MacBrayne Limited (DML) is identified as a prospective bidder.

The paper has already been agreed with your officials and I am now seeking your agreement to the paper proceeding for Cabinet consideration.

The following officials have either been involved in developing the paper and can provide you with support or will act as lead contact:

DG Constitution and External Affairs	[redacted]
DG Economy	
DG Education, Communities and Justice	
DG Health & Social Care	
DG Organisational Development and Operations	
DG Scottish Exchequer	

Cabinet Secretaries are asked to note the following [redacted]

I should be grateful if you could indicate whether you are content for the draft paper to proceed for Cabinet consideration.

I should be grateful for responses by Wednesday 13 June 2018 or sooner if possible.

ROY BRANNEN
CHIEF EXECUTIVE, TRANSPORT SCOTLAND
8 JUNE 2018

Thanks Roy, Mr Brown is content for this to proceed for Cabinet consideration.

| Private Secretary to Keith Brown MSP, Cabinet Secretary for Economy, Jobs and Fair Work
The Scottish Government | Web: www.gov.scot
| Email: CabSecEJFW@gov.scot

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Roy,

The First Minister is content for the draft Cabinet paper to proceed, but commented that she may make additional comments on this at Cabinet tomorrow.

Regards

DPS/First Minister of Scotland

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From: On Behalf Of Brannen R (Roy)
Sent: 08 June 2018 13:43
To: First Minister; Deputy First Minister and Cabinet Secretary for Education and Skills; Cabinet Secretary for Communities, Social Security and Equalities; Cabinet Secretary for Culture, Tourism and External Affairs; Cabinet Secretary for Economy, Jobs and Fair Work; Cabinet Secretary for Finance and the Constitution; Cabinet Secretary for Health and Sport; Cabinet Secretary for Justice; Cabinet Secretary for the Environment, Climate Change and Land Reform; Lord Advocate; Minister for Parliamentary Business
Cc:

Subject: PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4
Importance: High

PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4

First Minister
Deputy First Minister and other Cabinet Secretaries
Minister for Parliamentary Business
Lord Advocate

I attach a draft Cabinet paper which has been agreed by the Minister for Transport and the Islands and which is intended for consideration by Cabinet on Monday 18 June 2018.

Thanks. Noted.

Policy Officer, Rail Futures, Rail Directorate

From: **On Behalf Of** Cabinet Secretary for Culture, Tourism and External Affairs
Sent: 12 June 2018 09:20
To: Brannen R (Roy); First Minister; Deputy First Minister and Cabinet Secretary for Education and
Cc: Cabinet Secretary for the Rural Economy and Connectivity; Minister for Transport and the Islands; Permanent Secretary; Director Generals; Transport Scotland Directors;

Subject: RE: PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4

Roy,

Ms Hyslop is content for this paper to proceed to Cabinet.

Kind regards

Ms Cunningham is content for the paper to proceed to Cabinet.

Thanks.

Private Secretary to Roseanna Cunningham MSP |

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Roy,

Mr Ewing is content for the paper to proceed for Cabinet consideration.

Many thanks

| Deputy Private Secretary to the Cabinet Secretary for the Rural Economy and Connectivity| 2N.11 | St Andrews House, Regent Road, Edinburgh EH1 3DG

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From: On Behalf Of Brannen R (Roy)
Sent: 08 June 2018 13:43
To: First Minister; Deputy First Minister and Cabinet Secretary for Education and Skills; Cabinet Secretary for Communities, Social Security and Equalities; Cabinet Secretary for Culture, Tourism and External Affairs; Cabinet Secretary for Economy, Jobs and Fair Work; Cabinet Secretary for Finance and the Constitution; Cabinet Secretary for Health and Sport; Cabinet Secretary for Justice; Cabinet Secretary for the Environment, Climate Change and Land Reform; Lord Advocate; Minister for Parliamentary Business
Cc: Cabinet Secretary for the Rural Economy and Connectivity; Minister for Transport and the Islands;

Subject: PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4
Importance: High

PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4

First Minister
Deputy First Minister and other Cabinet Secretaries
Minister for Parliamentary Business
Lord Advocate

I attach a draft Cabinet paper which has been agreed by the Minister for Transport and the Islands and which is intended for consideration by Cabinet on Monday 18 June 2018.

Hi Roy,

Thanks, Mr Matheson has seen and is content for this paper to proceed for Cabinet consideration.

Kind regards,

I Deputy Private Secretary
Office of **Michael Matheson, Cabinet Secretary for Justice**

Scottish Government, Room 1W.11, St Andrew's House, Regent Road, Edinburgh, EH1 3DG I
CabinetSecretaryforJustice@gov.scot I www.gov.scot I

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Roy,

Ms Constance is content for this to proceed to Cabinet.

Thanks,

Deputy Private Secretary to Cabinet Secretary for Communities, Social Security & Equalities
The Scottish Government | St Andrew's House, Regent Road, EDINBURGH EH1 3DG

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From: On Behalf Of Brannen R (Roy)
Sent: 08 June 2018 13:43
To:
Cc:
Subject: PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4
Importance: High

PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4

ROY BRANNEN
CHIEF EXECUTIVE, TRANSPORT SCOTLAND
8 JUNE 2018

Hi , I am fairly sure there's no specific advice/comments from LGC

Scottish Government | Local Government and Communities | Public Service Reform & Public Bodies Unit |

From: **On Behalf Of** Cabinet Secretary for Communities, Social Security and Equalities
Sent: 13 June 2018 10:47
To: Cabinet Secretary for Communities

Cc: Cabinet Secretary for Communities, Social Security and Equalities
Subject: RE: PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4
Importance: High

Apologies, nil or otherwise. [redacted] can all Directorates either confirm no interest for them or let us have comments asap.

Many thanks.

Private Secretary to the Cabinet Secretary for Communities, Social Security and Equalities
The Scottish Government
St Andrews House, Regent Road, Edinburgh, EH1 3DG

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From: Cabinet Secretary for Communities, Social Security and Equalities
Sent: 08 June 2018 17:47
To:

Subject: FW: PRE-CABINET CONSIDERATION : A PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND : STAGE 4
Importance: High

Business Managers,

Please find attached a draft stage 4 Cabinet paper asking for comments/approval from Cab Sec.

Can you please consider for all three directorates' interest and provide **joint** advice using the attached template **by noon on Tuesday 12th June.** I have copied in named CSSE officials who have contributed at an earlier stage.

Please get in touch if you've any queries.

Thank you,

<< File: Cabinet - Stage 4 Advice - Template.docx >>

Deputy Private Secretary to Cabinet Secretary for Communities, Social Security & Equalities

The Scottish Government | St Andrew's House, Regent Road, EDINBURGH EH1 3DG

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Roy

Ms Robison is content for this to proceed to Cabinet.

Thanks

Private Secretary to Shona Robison msp
Cabinet Secretary for Health and Sport
Scottish Government

Please check our updated Ministerial Preferences

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Roy,

The Lord Advocate has identified one correction in the Cabinet Paper. In paragraph 34 of Annex B, the word 'independent' should be replaced by the word 'external'. This is marked in tracked changes in the attached version.

The Lord Advocate commented that it is evident that, whichever option is preferred, further work (including legal work) will be required; but he is content that this paper, identifying and discussing the options, proceed to Cabinet discussion.

Many thanks,

Deputy Private Secretary – Lord Advocate

Crown Office, 25 Chambers Street, Edinburgh
E-mail: Lordadvocate@gov.scot

Hi
We still await two responses to the Cabinet Paper [redacted]

The first two bullet points can be responded to as set out in the discussion paper which forms an annexe to the Cabinet Paper. The third bullet point will require broader discussion with the National Transport Strategy Team which I shall endeavour to progress quickly, being mindful of staff absences on summer leave.
The additional points raised by Mr Mackay on [redacted]

For the avoidance of doubt, Finance colleagues have been closely involved with the public sector bidder workstream from inception and indeed the content of the Cabinet Paper and annex was agreed with Finance before being submitted to the lead Minister.

I hope this is useful for now. Please come back to me if you have any further queries.
Regards.
[redacted]

| Rail Futures Team Leader | Rail Directorate

From:
Sent: 24 July 2018 16:01
To
Subject: Public Sector Bidder for Rail Franchises

Public Sector Bidder for Rail Franchises

With regard to the above, appreciate a bit of an update. I understand that Mr Mackay has now signed off the Cabinet paper. But I understand that he has asked for some further briefing to cover things like:

[redacted]

The Perm Sec would be grateful if you could advise on the likely timescale for a response on these (and any other issues) raised by the Minister.

Many thanks,

Permanent Secretary's Office
St Andrews House
Edinburgh
EH1 3DG

As with the handling last week of PSB queries from the First Minister and Mr Mackay, I attach a draft response to Mr Russell's comments, below, agreed with Ferries colleagues.

We shall now prepare a summary response for issue to the full Cabinet picking up on the various points raised, along with the handling plan for the announcement.

Thanks,

Policy Officer, Rail Futures, Rail Directorate

Mike,
On 2 August, [redacted] in your office helpfully confirmed that you are content to approve the approach proposed in the Cabinet Paper on Rail Franchises in Scotland. At the same time, in considering the Paper you had made an important point about the [redacted] and I wished to update you on how this can be addressed. Your point is highlighted below for ease.

[redacted]

[redacted]

[redacted]

As well as your own, I received comments from the First Minister and Cabinet Colleagues, and I shall issue a response shortly addressing those and confirming that we shall move ahead as indicated in the Cabinet Paper. I expect to make an announcement on this matter shortly.

Michael
Michael Matheson
Cabinet Secretary for Transport, Infrastructure and Connectivity

---

From:
On Behalf Of Cabinet Secretary for Transport, Infrastructure and Connectivity
Sent: 09 August 2018 13:32
To:
Cc:
Subject: FW: PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND: NEXT STEPS

Mr Matheson has noted that Mr Russell makes some reasonable points with regard [redacted]

He has asked if we could look at addressing some of these as Mr Russell has helpfully suggested?

Thanks

| Private Secretary to Michael Matheson MSP, Cabinet Secretary for Transport, Infrastructure and Connectivity

And, with this? I have updated the final lines, to provide more, relevant information. Can you let me know, if you prefer these new final lines. If so, I can adjust the letter to Mr Mackay.

First Minister,
On 6 August, [redacted] in your office confirmed that you are content to approve the approach proposed in the Cabinet Paper on Rail Franchises in Scotland. At the same time, in considering the Paper you had raised an important matter, and I wished to update you on how these can be addressed. Your point is highlighted below for ease.

[redacted]

As well as your own, I received a small number of points from Cabinet Colleagues, and I shall issue an response shortly addressing those and confirming that we shall move ahead as indicated in the Cabinet Paper. I expect to make an announcement on this matter [within the next few weeks] [prior to recess].

Michael

Michael Matheson

Cabinet Secretary for Transport, Infrastructure and Connectivity

[redacted]

Hi [redacted]
[redacted]has asked me to run the material below past you before I send it to Mr Matheson for his approval. Could you come back to me as soon as possible please. Happy to discuss over the phone if you need any more info – I appreciate that it's usually [redacted]who deals with this topic.
Thanks.
[redacted]

Hi [redacted]
There is indeed some uncertainty [redacted]

[redacted]

Happy to discuss further if required.
[redacted]

[redacted]

[redacted]

Scottish Ministers, Special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

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From: **On Behalf Of** First Minister
Sent: 06 August 2018 11:19
To: Cabinet Secretary for Transport, Infrastructure and Connectivity; First Minister; DL Cabinet Secretaries
Cc: Permanent Secretary; Director Generals; Brannen R (Roy);
Subject: RE: PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND: NEXT STEPS

,

With apologies for the delay in responding, the First Minister is content with this proposal, however she has commented that [redacted]

Grateful for advice.

Regards

DPS/First Minister of Scotland

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From: Forrest SJ (Simon) **On Behalf Of** Cabinet Secretary for Transport, infrastructure and Connectivity
Sent: 03 July 2018 10:57
To: First Minister; DL Cabinet Secretaries
Cc: Permanent Secretary; Director Generals; PSCECA@copfs.gsi.gov.uk; Brannen R (Roy); Transport Scotland Directors; Rogers DA (David) (Strategy and Constitution Director); Solicitor to the Scottish Government & PS; [redacted]
(Director for External Affairs [redacted] Cabinet Secretariat inbox; UK Relations Mailbox; FM Policy Team Mailbox; [redacted] Press Transport Scotland; Communications Economy; [redacted]

[redacted]

[redacted] | **Rail Futures Team Leader | Rail Directorate**
|
transport.gov.scot

Transport Scotland, Buchanan House, 58 Port Dundas Road, Glasgow, G4 0HF

Transport Scotland, the national transport agency
Còmhdhail Alba, buidheann nàiseanta na còmhdhail

From: On Behalf Of Cabinet Secretary for Transport, Infrastructure and Connectivity
Sent: 06 August 2018 11:20
To:
Subject: FW: PUBLIC SECTOR BIDDER FOR RAIL FRANCHISES IN SCOTLAND: NEXT STEPS

– grateful for advice and a draft reply for Mr Matheson on FMs queries below.

Thanks

| Private Secretary to Michael Matheson MSP, Cabinet Secretary for Transport, Infrastructure and Connectivity
The Scottish Government | St Andrew's House, Edinburgh, EH1 3DG | Web: www.gov.scot

All e-mails and attachments sent by a Ministerial Private Office to any other official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments.

Agenda
Discussion on DML Finances and Rail Public Sector Bidder
22 August 2018; 14:00, Room 8W-06

1. Update on latest position
2. Purpose of discussion
3. Cabinet Paper approach [redacted]

[redacted] DML letter [redacted]

[redacted]

[redacted]

[redacted]

8. Next Steps (eg, agreed tasks; DML pre- meeting and meeting)

Dial-in details: [redacted]
Participant code: [redacted]

Attendees: [redacted]

Rail Policy and Strategy
August 2018

Colleagues – Thanks to all who attended the meeting on 15 August in Glasgow. Hope you found it helpful.

Just by way of keeping everyone in the loop we had two presentations – one on the Office of National Statistics system for the classification of public bodies and the other on Freedom of Information compliance.

The two presentations are attached – if you require any advice on these topics please contact - on FOI.

also provided a handout on the role of SG Procurement Shared Services and Sandra or can be contacted for further advice.

The next meeting of the Group is scheduled to take place in Atlantic Quay, Glasgow on Wednesday 17th October (10.30 till 12.30) – if you wish PBU to cover any specific area please let us know asap.

I'll be sending round the PBU tracker shortly with a view to obtaining updates by the end of the month.

Grateful if you can keep me up to date with any staff changes that effect the contacts list for the Group.

Best

XX

Public Bodies Unit/ Public Bodies and Public Service Reform Division/ Directorate for Local Government and Communities/ Scottish Government/ Area 3 F North, Victoria Quay/ Edinburgh/ Edinburgh/ EH6 6QQ/

Thanks best of luck in your new post. – please keep Property Division informed in early course if you require accommodation as it can take c 9 – 12 months minimum to acquire and fit-out new accommodation where no suitable space exists on estate.

Speak soon.

Best regards

Principal Estates Surveyor
gov.scot
Property Division | Scottish Procurement & Commercial Directorate | Victoria Quay | 3 - B (S) Edinburgh | EH6 6QQ

Please consider the environment before printing this email

From:
Sent: 21 August 2018 13:24
To:
Cc:
Subject: RE: Rail Futures - Premises enquiry

Hi [redacted]

I've just moved to a new post, so [redacted] will be your contact going forward. Regards.

Head of Forensics Policy | Safer Communities Directorate
T: | Blackberry XXX

Room 1R
St Andrews House
Regent Road
Edinburgh
EH1 3DG

SCANCE Contribution
Public sector bidder for rail franchises in Scotland

Following agreement by the new, full Cabinet, the Cabinet Secretary for Transport announced on Thursday 23 August via a Government Initiated Question that a public sector body will be able to bid for the next Scotrail franchise should they wish to do so. David MacBrayne Limited has confirmed its interest in exploring the possibility of such a bid. [redacted]

A meeting between DML and officials as well as of the existing Public Sector Bidder Stakeholder Reference Group (chaired by the Cabinet Secretary) is expected to take place in October, to discuss the announcement. [redacted]

Speaking Note

- In line with the manifesto commitment, we want to enable a competitive public sector bid to strengthen competition for rail franchises in Scotland in order to secure best value for the public purse while delivering continuous service improvements.
- David MacBrayne Limited has recently confirmed its interest in exploring the possibility of a bid, and following the Cabinet's agreement to the approach outlined in the Cabinet Paper, I notified Parliament of that interest via a GIQ last Thursday. I also informed the relevant Parliamentary Committee, and individual Transport spokespersons and transport trade unions.
- I fully expect the current ScotRail franchise to continue to its planned expiry date of 2025.

[redacted]

PUBLIC SECTOR BIDDER:
COMMUNICATIONS AND ENGAGEMENT PLAN

Version: August 2018 (1)

1. General lines to take

- Using powers under the Scotland Act 2016 we are taking steps to ensure that a public sector operator is able to bid for a future rail contract, and that there is a public sector body able to do so.

- In line with our manifesto commitment, we want to enable a competitive public sector bid to strengthen competition, in order to secure best value for the public purse while delivering service improvements.

- *[Use only after Ministerial announcement on approach]* David MacBrayne Ltd has confirmed its interest in exploring the possibility of a bid for a Scottish rail franchise contract.

- Any public sector body that wishes to consider bidding for a rail franchise contract that is let by the Scottish Ministers is able to do so – that is a decision for them.

Scottish rail franchise competitions will continue to be fair and transparent, giving equal treatment to all bidders whether from the public or private sectors.

- It is important for any public sector bidder to have the appetite to bid; the capability and capacity to see the bid through; and the ability and resources to make the franchise a success.

- We fully expect the current ScotRail franchise to continue to its planned expiry date of 2025. Ensuring that a public sector organisation is capable of submitting a viable bid for future rail franchises will take some time and so we are undertaking early work on the public sector bidder as a contingency.

2. Ministerial announcement

In 2017/18, the then Minister for Transport and the Islands committed to making an announcement on whether a new public sector body will be set up to bid for the next ScotRail franchise contract.

The Minister must make an announcement to Parliament before speaking publicly in any great detail about significant policy issues. The Parliament can be notified in a number of ways, from debates or statements in the Chamber, to letters to the relevant Committee. Announcements of significant public interest should be made in the Chamber, whenever possible, to allow MSPs to ask questions of Ministers directly.

Various options for the announcement are presented below.

2.1 Government Initiated Question (GIQ)

[redacted]

2.2 Stakeholder meeting

[redacted]

[redacted]

2.3 Alternatives: Parliamentary statement with Q&A, or Parliamentary debate

[redacted]

3 Informing others

Communication with stakeholders who were engaged as 'potential bidders' at an early stage in the process

[redacted]

Communication with the core stakeholder group

[redacted]

Informing external stakeholders of the announcement

Press lines have been prepared to accompany any announcement.

3. Communications and engagement from January 2018 onward

The programme of work undertaken by the Rail Futures team in respect of the public sector bidder will depend on the outcome of discussions with the Minister and the Cabinet in 2017/18.

[redacted]

ANNEX A

EXTERNAL STAKEHOLDERS

Core stakeholder group

The Minister has met with a select group of stakeholders on a number of occasions in 2016 and 2017. [redacted]

MSPs

- Neil Bibby MSP
- John Finnie MSP
- Mike Rumbles MSP
- Peter Chapman MSP
- Jamie Greene MSP
-

RTPs

- [redacted] HITRANS
- [redacted], NESTRANS
- [redacted] SESTRAN
- [redacted] SPT
- [redacted] SWESTRANS
- [redacted] TACTRANS (retired, 2018)
- [redacted], TACTRANS (has replaced Eric Guthrie)

Others

- [redacted] ASLEF
- [redacted] Passenger Focus
- [redacted] RMT
- [redacted] STUC
- Manuel Cortes, TSSA
- [redacted] UNITE

Information gathering

A number of meetings have been conducted with individual organisations to gather information, including:

- DML ([redacted] Robbie Drummond)
- Lothian Buses
- NEXUS
- SPT (Directors,
- Transport for London
- UK Department for Transport
- RMT - at their request.

Other interested parties

Others have shown an interest in the Minister's aims and actions:

- Bring Back British Rail
- Co-operatives UK
- A number of individual members of the public
- Press
- TSSA and Common Weal (Report "A public future for Scotland's Railway")
- The Wise Group
- Tom Harris (Former Labour UK Transport Minister)

ANNEX B

INTERNAL SCOTTISH GOVERNMENT STAKEHOLDERS: POLICY AND ADVICE

The Rail Futures team is developing solutions with the support of a range of Transport Scotland and Scottish Government policy and specialist advisers.

The Rail Futures team has met with all of the teams mentioned at Figure 1, has shared key documents for review, and has chaired cross-division meetings to facilitate discussions between areas with common interests. These cross-division meetings will continue as we develop our approach.

PUBLIC SECTOR BIDDER: PROJECT PLAN

1. Introduction

1.1. In order to meet the current administration's commitment to ensure a public sector bid is submitted in the next Scottish rail franchise competition, Transport Scotland officials will:

- Advise Ministers on the most appropriate vehicle to deliver the commitment;
- Seek to take the necessary action (e.g. legal, financial etc.) to enable a public sector body to submit a bid.

1.2. More information is available in the project initiation document at erdm reference [redacted]

2. Roles and responsibilities

Reporting

2.1. The Rail Futures team will be responsible for the delivery of the project outputs. The Rail Futures team reports to the Rail Management team. Overarching decisions will be made by Ministers, with direction on day to day activities from the Rail Futures team leader, with approval and advice from the Rail Management team and Transport Scotland's Directors, as appropriate.

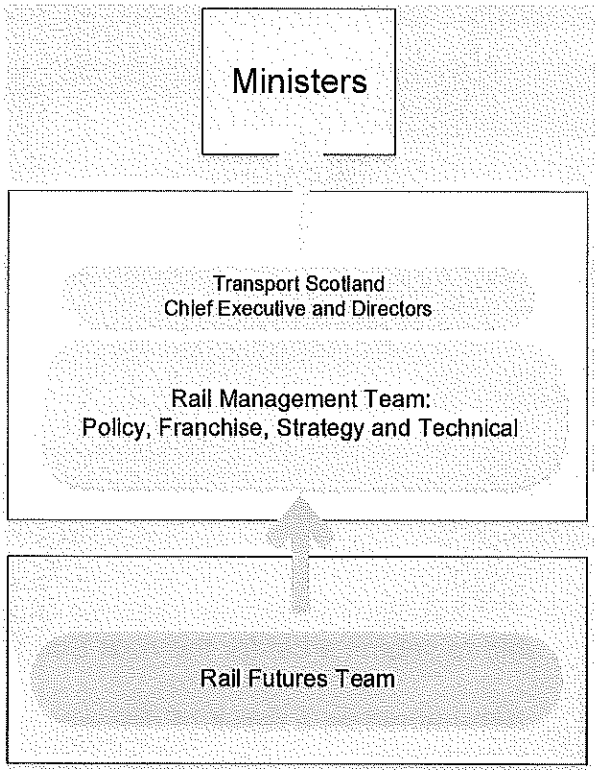

Figure 1: Reporting

ERDM ref [redacted]

Key stakeholders

2.2. Support and advice from internal colleagues and external stakeholders are key to the success of our work. More information is provided in the *communications and engagement plan* ('comms plan') at erdm reference [redacted]

3. Resources

Rail Futures team

3.1. The Rail Futures team consists of three Transport Scotland officials: C1 team leader and two B3 policy officers. A number of specialist colleagues will be enlisted to support this work – particularly from legal, financial and procurement teams within the Scottish Government (see comms plan).

[redacted]

Establishing a body that is capable of submitting a bid

[redacted]

4. Timescales

[redacted]

4.3. Figure 3, below, sets out the key milestones required in 2017 to ensure that a public sector body is able to submit a bid for the next ScotRail franchise.

4.4. The next steps will be determined as a result of dialogue with Transport Scotland senior management and Ministers.

[redacted]

Figure 3: milestones achieved to Summer 2018

Figure 4: milestones from Summer 2018

Agenda
Update and Discussion on Rail Franchises and Public Sector Bidder
Room 7W-02, Buchanan House
14:00; Monday 3 September 2018

1. Welcome and introductions

2. Purpose of discussion

3. Update on latest position
   - SG Programme for Government (2017-18; 2018-19)
   - [redacted]Cabinet Paper [redacted]
   - Cabinet comments on the Cabinet Paper and response (attached)

4. Meeting with DML – [redacted]

5. A proposed framework for a Public Sector Bid for Rail Franchises

6. Next Steps (eg, agreed tasks; meeting with DML)

Dial-in details: 0800 368 0624
Participant code: 311057

Invitees:

Apologies for Absence:

Rail Policy and Strategy
Transport Scotland
September 2018

Rail: Public Sector Bidder Franchises in Scotland
Meeting between DML and Transport Scotland
19 September 2018; Room 4W-01, Buchanan House
Agenda

1. Welcome and Introductions
2. Opening Remarks and Purpose of meeting
3. Update on Scottish Government policy proposal
4. David MacBrayne Limited Update
5. [redacted]
6. Procurement principles and proposed approach
7. Timescales and Costs
8. Stakeholder engagement
9. AoB and Next Steps

Attendees

Bill Reeve, TS Rail, Director	David McGibbon, David MacBrayne Limited, Chair
Frances Pacitti, TS Aviation, Maritime, Freight and Canals, Director	Robbie Drummond, CalMac Ferries Ltd, Managing Director
	[redacted]

Dial-in details:
Participant code:

Public Sector Rail Franchises in Scotland; Meeting between DML and Transport Scotland, 19 September 2018; Note and action points

Attendees

Bill Reeve, TS Rail, Director	David McGibbon, David MacBrayne Limited, Chair
Frances Pacitti, TS Aviation, Maritime, Freight and Canals, Director	Robbie Drummond, CalMac Ferries Ltd, Managing Director
[redacted] TS Finance, Financial Controller,	[redacted]
[redacted] TS Rail, Policy Officer	

1. **Welcome and Introductions**
   Bill Reeve welcomed all to the meeting, attendees described their roles and responsibilities.

2. **Opening Remarks and Purpose of meeting**
   The purpose of the meeting would be for both parties to update each other on relevant topics, stemming from the recent GIQ announcement in respect of a Public Sector Bidder (PSB) by the Scottish Government.

   A review of different options and other potential public transport providers in Scotland had been carried out, and DML had been identified as a public transport body in Scotland with the greatest combination of [redacted] and thus able to realistically express an interest in a robust franchise bid. [redacted]

3. **Update on Scottish Government policy proposal**
   Bill Reeve restated the Scottish Government's policy position on a PSB for future rail franchises in Scotland, underpinned by amendments to UK legislation, noting that the policy is reaffirmed in the latest Programme for Government. He explained that the ScotRail franchise is expected to run until 2025, but that a break clause exists, exercisable by either party. Abellio will be held properly to account for its performance. Exceptional circumstances aside, and subject to the re-basing exercise outcome, an OJEU notice would not be issued until 2020.

   BR also explained that a DfT led Rail industry review, which would include franchising, is due to be published the following day (20 September). TS is not privy to the review, but once published, it will provide further information about UK Government plans. [redacted]

   A general discussion about franchising principles took place [redacted]

Public Sector Rail Franchises in Scotland; Meeting between DML and Transport Scotland, 19 September 2018; Note and action points

[redacted]

4. **David MacBrayne Limited Update**
David McGibbon reaffirmed DML's interest in the franchise, [redacted]

5. **TS Ferries Sponsorship Role**
Frances Pacitti summarised the separation of responsibilities within TS Ferries and TS more generally. [redacted]

6. **Procurement principles and proposed approach**
[redacted]

Public Sector Rail Franchises in Scotland; Meeting between DML and Transport Scotland, 19 September 2018; Note and action points

7. **Timescales and Costs**
   BR provided some more detail about franchise timescales, and explained that on recent experience any realistic bid would require some £10 million.

8. **Stakeholder engagement**
   The Cabinet Secretary for Transport will chair the next meeting of the PSB Stakeholder Reference Group, expected to be held on 24 October. Opposition party spokespersons, transport trade unions and Regional Transport Partnership representatives will be invited.

9. **AoB and Next Steps**
   The DML representatives thanked TS colleagues for the further information provided, confirming that it had been useful [redacted]

[redacted]
Rail Policy and Strategy
20 September 2018

[redacted]

If you call me tomorrow as suggested, it would be useful to discuss what you see as the next steps.

Regards
Robbie

Robbie Drummond
Managing Director, CalMac Ferries Ltd
Executive Director, David MacBrayne Ltd
[redacted]

On 8 Oct 2018, at 10:11

Robbie,
I hope you are well.

Following the meeting at Buchanan House on 19th September and in [redacted] absence I was wondering if you could give me a call to provide relevant feedback from the scheduled DML Board Meeting?

I spoke to [redacted] earlier and I gather you might be free early tomorrow morning, between 8:30am and 9:00am, when I shall also be available. I shall be in the office today and should be able to call you back at a time convenient to you if you are not able to reach me.

Thanks,

[redacted]

[redacted]
Policy Officer, Rail Futures, Rail Directorate
[redacted]

Transport Scotland, Buchanan House,
58 Port Dundas Road, Glasgow,G4 0HF

Public Sector Bidder (PSB)
Stakeholder Reference Group
Wed 24 October 2018

Pre-meet, 13:45

Notes on attendees

MSPs

- Jamie Greene (Cons) will attend subject to Parliamentary business;
- Mike Rumbles (Lib Dem) has not responded;
- John Finnie (Green) and Colin Smyth (Lab) have accepted.

[redacted] added by Tactran – Labour party, Dundee City Council.

Current issue

[redacted]

Stakeholder views on PSB

The Labour Party and the Green Party have called for nationalisation of the railway. Labour and Green Party MSPs (including Colin Smyth and John Finnie) have asked Parliamentary Questions about the progress of the work on the public sector bidder, including interactions with David MacBrayne Ltd.

Unions have also shown support for public sector rail operations. At the STUC meeting on 2 September 2018, the Cabinet Secretary for Transport, Infrastructure and Connectivity stated that any public sector bid may face significant challenges for it to be successful. One such aspect would be interested parties may not be currently equipped with sufficient railway experience and that experience may have to be "bought in". [redacted]

The Conservative Party supports competition for rail contracts. Jamie Greene has asked Parliamentary questions about the cost of bidding for a rail franchise contract and operating services.

The Liberal Democrats have not been vocal on the subject, however Mike Rumbles has asked a Parliamentary Question on whether there was analysis on the impact (on passengers and finances) of ScotRail being taken into public ownership.

Quotes

Colin Smyth's speech to Labour Party Conference, 10 March 2018:

> 'I challenged Humza Yousaf in Parliament recently to accept that privatisation of our railways had come to the end of the track. To support bringing our railways back under public ownership. His response? Straight from the Tory textbook – it can't be done, we can't afford it, and his punchline – nationalisation fails. …That vision isn't a return to some 20th century model of nationalisation, but a modern 21st century vision of public, democratic ownership.'

John Finnie, Green Party, quoted in The Herald on 10 June 2018:

> 'We welcome the fact that there's a Ministerial group looking at a public rail franchise, but it's not the model we would want. Our preference for rail would be publicly run, as pure and simple as that, where a Minister is subject to scrutiny for rail services. We'd be wanting direct public ownership to ensure that the sole beneficiaries of public money are the public.'

Jamie Greene, Conservatives, quoted in The Herald on 20 August 2018:

> 'Nationalisation isn't some magic bullet – as anyone who remembers the days of British Rail knows full well. What Scotland needs is a competitive structure for the railways which offers affordable fares and a quality service. There's no shortage of companies willing to do this, but it requires strong oversight from the SNP government to ensure that happens.'

MEIP / funding

[redacted]

Direct awards

Possible under European Law through derogation, prevented by UK legislation.

[redacted]

[redacted]

Regional railways

[redacted]

Unions

Opportunity to offer solution through Rail2014 consultation.
Transport Scotland has expertise to run a franchise (e.g. OLR) but not a bid team.

Options

[redacted]

Cab Sec policy position

[redacted]

Workstream 1: DML

List of things to think about if bidding for a franchise.

[redacted]

[redacted]

Workstream 2: Identify possible options.

[redacted]

What would each of those look like?

Timescale: by end of November.

Workstream 3: What do we want from the Rail Review?

Franchising – ability to award contracts directly.

[redacted]

First

Create project plan.

Next steps

Present options to Ministers and ask if they want us to do more detailed work, after SWOT analysis agreed by Bill, aim for December 2018.

PS/Minister for Transport and the Islands
PS/ Cabinet Secretary for Rural Affairs and the Environment

Further to the consideration by all Cabinet Secretaries (and officials) of the Stage 4 Cabinet Paper "A public sector bidder for Rail franchises in Scotland", I attach an updated draft for your final consideration prior to its issue to the Cabinet Secretariat on Thursday 14 June for discussion at Cabinet on Monday 18 June. The updates are minor in nature, and are as follows:

Inserted Text	Comments	Deleted text
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

You are invited to confirm that the Paper be passed to Cabinet Secretariat for circulation.

Subject to this confirmation, a draft speaking note will be provided for the Minister for Transport's weekend box.

If you wish to discuss further with officials please do not hesitate to contact me or [redacted].

Roy Brannen

[redacted]
Policy Officer, Rail Futures, Rail Directorate
T: 0141 272 7444 (X 27444)