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Committee of Public Accounts
Leinster House
Dublin 2
D02XR20

Your Reference: S0676 PAC33

15th February 2022

Re: Correspondence (R0727 PAC33) in relation to a procurement process undertaken by Bus Éireann for the provision of tachograph management services (“Correspondence”)

Dear Sarah,

I refer to your letter, dated 10th December 2021, in relation to the above matter and regret any inconvenience caused by the delay in replying to your letter.

The Correspondence appears to be an undated letter from a tenderer that was unsuccessful in relation to a tender process for tachograph management services, that was published in the Official Journal of the European Union (Tenders Electronic Daily) and on eTenders, on 10th August 2020 (the “2020 Tender Process”).

Background

On 12th May 2021, Bus Éireann notified the successful tenderer and the unsuccessful tenderers of its decision to award a Single Provider Framework Agreement for Services – Tachograph Management Services (the “Framework Agreement”) to the successful tenderer.

The award of the Framework Agreement was subject to a standstill period and during that period, an unsuccessful tenderer, Tranzaura Limited, raised issues regarding the conduct of the procurement process.

Bus Éireann carried out a review of the procurement process and decided to cancel the process (and not enter the framework agreement with the successful tenderer). Bus Éireann communicated its decision to cancel the process to all tenderers, including Tranzaura Limited, on 31st May 2021

Stiúrthóirí Directors – Mr Stephen Hannan, Mr Richard Manton, Ms Miriam Hughes, Mr Brendan Lenihan, Mr Diarmaid Corry, Mr Dermot Healy

Bus Éireann-Irish Bus, cuideachta ghníomhaíochta ainmnithe, faoi theorainn scaireanna, claraithe in Eirinn ag Chloch Leathan, Baile Átha Cliath 7. Uimh. 119570 Uimh. CBL. 4812850M. Bus Éireann-Irish Bus, a designated activity company, limited by shares, registered in Ireland at Broadstone, Dublin 7. No 119570 Vat No. 4812850M

and explained to all tenderers that any new procurement process would be advertised on eTenders and in Tenders Electronic Daily.

On 10th August 2021, Bus Éireann advertised a tender process for the provision of a tachograph management system on Tenders Electronic Daily and on eTenders (the “2021 Process”). The 2021 Process is currently underway and Bus Éireann expects it to conclude in the second quarter of this year.

Bus Éireann expects that the award of the contract in relation to the 2021 Process will be made prior to the expiry of the current contract.

Correspondence (R0727 PAC33)

In relation to the second paragraph of the Correspondence, I note that Tranzaura Limited has stated that:

“Given the introduction of the BAFO process was neither communicated ahead of time, was introduced after the tender submission deadline,”

The foregoing assertion is incorrect. In that regard, Condition 11.9 of the Conditions of Tendering for Single Provider Framework Agreement for Tachograph Management Services (the “Conditions of Tendering”), that were issued to all tenderers, provided:

“BE reserves the right to conduct the evaluation of tenders and/or the selection of the successful or preferred bidder in successive stages, including the right to reduce the number of bidders by way of a short list and/or seek best and final offers from one or more of the tenderers. BE reserves the right to enter into further negotiations with a preferred bidder. In the event that negotiations with the preferred bidder do not result in the award of the Contract to the preferred bidder, BE reserves the right to negotiate with any one or more of the remaining tenderers.”

In relation to the fifth paragraph of the Correspondence which refers to requests for feedback, I note that Tranzaura Limited has stated that:

“We have submitted questions and requests for feedback to ‘Bus Eireann’ on numerous occasions which have been ignored each time”.

The foregoing assertion is incorrect. In that regard, on 12th May 2021, Bus Éireann wrote to all unsuccessful tenderers, including Tranzaura Limited, to explain, amongst other things, who the successful tenderer was, the scores of the unsuccessful tenderer compared with the scores of the successful tenderer in relation to award criteria and Bus Éireann provided a summary of the reasons

for the unsuccessful tenderer being unsuccessful (the “Unsuccessful Tenderer Letter”). Bus Éireann was and remains satisfied that the Unsuccessful Tenderer Letter that was sent to Tranzaura Limited, provided Tranzaura Limited with sufficient feedback.

Bus Éireann did not provide any further feedback to Tranzaura Limited or to any other unsuccessful tenderer, other than the feedback that was contained in the Unsuccessful Tenderer Letter.

Bus Éireann subsequently received an email from Tranzaura Limited, dated 1st June 2021, requesting a “briefing/debriefing session”. Bus Éireann replied by email, dated 8th June 2021, to explain that it would not be providing a briefing to Tranzaura Limited or to any of the other tenderers in the process.

Bus Éireann received a further email from Tranzaura Limited, dated 9th June 2021, requesting a debriefing session. Bus Éireann replied to Tranzaura Limited by email, dated 11th June 2021, to explain again that Bus Éireann would not be providing a briefing to Tranzaura Limited or to any of the other tenderers in the process. Bus Éireann also thanked Tranzaura Limited for its further comments and confirmed that Bus Éireann adheres to all applicable transparency and fairness requirements when conducting its procurement processes.

In relation to the questions in the last paragraph of the Correspondence, Bus Éireann confirmed the identity of the successful tenderer in the Unsuccessful Tenderer Letter. As outlined above, the award of the Framework Agreement was subject to a standstill period and during that period, an unsuccessful tenderer, Tranzaura Limited, raised issues regarding the conduct of the procurement process. Bus Éireann carried out a review of the procurement process and decided to cancel the process (and not enter the framework agreement with the successful tenderer). Bus Éireann expects that the award of the contract in relation to the 2021 Process will be made prior to the expiry of the current contract.

In 2021, Bus Eireann awarded over 40 contracts. Bus Éireann complies with all applicable procurement law requirements and our own internal policies and procedures when conducting its procurement processes.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Stephen Kent', with a stylized flourish at the end.

Stephen Kent
Chief Executive Officer