

T: 0300 244 4000  
E: scottish.ministers@gov.scot

Edward Mountain MSP  
Convener,  
Net Zero, Energy and Transport Committee  
By email: [Netzero.committee@parliament.scot](mailto:Netzero.committee@parliament.scot)

31 May 2023

Dear Convenor

### **Transport Scotland engagement of consultants to support preparations of the Clyde and Hebrides Ferry Service (CHFS) contract**

Thank you for your letter of 25 May and I am happy to offer clarity on the situation.

I would like to start by advising that these consultants have not been engaged to complete a specific piece of review work as was the case for Project Neptune. As is routine on complex high-value projects, such as this one, we have commissioned specialist external advisers to assist with the overall development of the contract, which includes provision of support to help ensure that the contract meets the needs of communities, adheres to relevant legislation and delivers value for money.

#### (i) Consultant support on CHFS2 preparations

The implementation of the current CHFS2 contract also utilised consultants to support the procurement process. These consisted of HowisonConsult Ltd, which provided general advice and support on the procurement process and contract development, and Ernst & Young, who created the contract financial model and carried out the financial assessment of tender submissions. In addition, Caledonian Maritime Assets Limited (CMAL) also provided advice on elements relating to harbours and vessels throughout the contract development and procurement process, and tender evaluations.

The output from the consultants' work resulted in the delivery of the CHFS2 contract which is available online at :-

<https://www.transport.gov.scot/publication/contract-for-provision-of-ferry-services-2016-2024-clyde-and-hebrides/>

#### (ii) Consultant support on CHFS3 preparations

The respective roles of CMS Cameron McKenna Nabarro Olswang LLP (CMS) and Turner and Townsend (T&T) in relation to the implementation of the next generation CHFS contract (CHFS3) are outlined below; which as I have advised above, is different to the remit of the consultants employed to deliver the Project Neptune report. This approach has been successfully used by Transport Scotland for major service and construction projects, with

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examples including the trunk road Network Maintenance Contracts (NMC), A9 dualling, and Rail franchising/public ownership.

In relation to CHFS3, CMS will provide legal services for the development and preparation of the contract focusing on:

- reviewing and advising on options and assisting in implementing the chosen strategy;
- supporting the procurement process;
- preparation and development of the CHFS3 contract;
- post contract support.

CMS have attained expertise in the maritime sector through their work both in Scotland and internationally. They have been involved in Scottish ferries projects for almost 20 years, commencing with their work advising the Scottish Government on the CHFS1 procurement and the associated restructuring of Caledonian MacBrayne in 2006. They have subsequently assisted the Scottish Government on contracts for the Northern Isles lifeline services, Northern Isles freight services, and Gourock-Dunoon; in addition to also advising other European public sector bodies on regulated ferries procurements. CMS also have experience in public procurement across a range of sectors, and this combination of experience makes them ideally suited to supporting Transport Scotland on this project.

T&T will provide project and programme management support for the CHFS3 project, which will include reviewing best practice, and helping us identify opportunities for improvement. Their input will include:

- provision of technical, commercial and procurement advice;
- support for the development of the contract specifications and any associated procurement process (including procurement strategy, supplier engagement, and any subsequent tender evaluation as may be necessary);

T&T are recognised for their multi-modal transport expertise which includes the maritime sector.

Once the next generation CHFS services are in place, the relevant contract documentation will be published on the Transport Scotland website. The costs associated with the CHFS external advisers are reflected in the published Contract Award Notices, which are estimates based on Transport Scotland's previous experience of these types of commission and can be viewed at Public Contract Scotland website using the links below:

[View Notice legal advisory services - Public Contracts Scotland](#)

[View Notice - Commercial Advisory services](#)

Taking into account the operational costs for delivery of the CHFS3 services, it is a prudent and proportionate step to engage specialist support (estimated at <1% of the anticipated contract value of over £1bn) to help ensure that the contract meets our community's needs, is compliant with relevant legislation and demonstrates value for money. Due to competing demand from the private sector for this type of specialist resource, it is currently extremely challenging to recruit and retain this type of resource in the public sector. In addition, the project requirements for this specialist input (at contract development and procurement phase) would mean it would not be practical, or represent value for money to maintain an additional pool of specialist legal, maritime and procurement resources on a full-time basis.

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We will of course keep the project programme under review, which will depend on the ultimate procurement route taken, and I will keep Parliament informed when key decisions have been taken.

I remain committed to ensuring the most efficient and best value arrangements are employed to deliver our key lifeline CHFS ferry services. The options to ensure continuity of these services are currently being explored with support from our advisers, and will be informed by ongoing public consultation relating to Project Neptune, and consultation being carried out on the Island Connectivity Plan in addition to CHFS3 specific consultation that will be undertaken.

The engagement of specialist advisors at this time provides assurance that the specifications being developed will deliver safe and sustainable ferry services, and reflect a good level of service for our island communities.

Yours sincerely

**KEVIN STEWART**

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St Andrew's House, Regent Road, Edinburgh EH1 3DG  
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