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The Scottish Parliament  
Edinburgh  
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28 March 2023

Dear Edward

## **INQUIRY INTO A MODERN AND SUSTAINABLE FERRY SERVICE FOR SCOTLAND**

Thank you for your letter dated 1 March 2023.

This letter sets out answers to the Committee's request for further detail regarding the procurement of two ferries for the Islay services and a further two ferries for the Little Minch services – all four of which as you know were awarded to the Cemre Marin Endustri AS shipyard in Turkey.

### **a) The tender process**

#### ***Islay Vessels (2 ferries) – Hull numbers 1092 and 1093 – March 2022***

The procedure used was "Restricted" – interested parties submit a completed Single Procurement Document (Scotland) known as the "SPD(S)". This is comparable to the process formerly known as a pre-qualifying questionnaire and is used by CMAL as the procuring authority to shortlist the candidates that shall be invited to submit a formal tender for the contracts.

### **Stage 1 – Shortlisting Evaluation Criteria**

#### **• Economic Standing**

- Candidate shipyards were required to provide a range of information to demonstrate sufficient financial standing to deliver the contracts on time and within budget.
- CMAL obtained a high-level independent report to assess the risk rating of each of the candidate shipyards that submitted a SPD(S).



- CMAL obtained an in-depth independent report from a third-party specialist financial consultant, upon each of those shipyards.
- The results of the above reports were checked and summarised by CMAL's Director of Finance.

- **Technical and Professional Ability**

- Candidate shipyards were required to provide information to demonstrate their Technical & Professional Ability, Shipyard Capabilities and Facilities, Organisation Structure, Supply Chain Management and HSEQM.
- Responses were assessed by CMAL staff and an independent assessor.

- **CMAL Board Approval**

- Results of the Economic assessments and the Technical and Professional assessments were collated, and shortlisting recommendations were presented to the CMAL Board.
- The top 4 scoring candidate shipyards were Invited to Tender.

## **Stage 2 – Award Evaluation Criteria**

- **Commercial Evaluation (Price)**

- The financial assessment was based on the overall cost to the buyer, to complete the full scope of the requirement as stated within the Invitation to Tender pack for design, construction and delivery of the vessels.
- The lowest-price bid received was awarded 40 points will all other bids pro-rated against this.

- **Technical Evaluation (Quality)**

- Tenderers were required to submit detailed responses to a number of technical questions relating to the following evaluation criteria:

Draft Contract Shipyard Technical Specification Submission	17%
Draft Contract Shipyard General Arrangement Drawing	16%
Shipyard Maker's List and Shipyard and Subcontractor Competencies	17%
Skills and Resources	8%
Project & Management	5%
Shipyard Installation Standards	5%
Ship capability and capacity levels	15%
Compliance level with draft shipbuilding contract	8%
Delivery Schedule	8%
Fair Working Practices	1%

- The technical responses were assessed by CMAL staff, an independent technical expert, and Specialist Technical Advisors
- **Shipyard Visits**
  - A team of CMAL representatives visited each of the 4 shipyards in early February 2022 to meet the shortlisted shipyards' senior team and heads of departments, to see the premises and fabrication facilities and to see any vessels they had under construction.
  - Specific legal guidance was taken as to the appropriate structure, content and duration of the visits. The visits did not discuss any commercial or technical aspects of the proposals.
- **Sponsor Approval**
  - Transport Scotland are informed throughout of the progress and status.
  - Voted loan arrangements, across multiple funding years are finalised.
  - Ministerial approval obtained to proceed with contract award.
- **Contract Award**
  - Evaluation process summarised and presented to the CMAL Board with recommendations for award.
  - Scottish Ministers informed of the outcome via Transport Scotland.

### ***Little Minch Vessels (2 ferries) – Hull numbers 1100 and 1101 – January 2023***

The procedure used was "Open" – a single stage tender process where the tender documents were available to all interested parties. No shortlisting phase and hence no restriction to the number of bidders able to submit a tender response.

#### **Selection Evaluation Criteria**

- **Economic Standing**
  - CMAL obtained a high-level independent financial diligence report.
  - Any Tenderer assessed as an overall business risk of "high" failed the economic and financial standing test and would be set aside.
  - CMAL also requested a range of financial due diligence documents that were forwarded to an independent third-party specialist financial consultant, who prepared an in-depth report.
- **Technical and Professional Ability**
  - Tenderers were required to provide information to demonstrate their Technical & Professional Ability, Supply Chain Management and HSEQM.
  - Responses were assessed by CMAL staff.
  - Any Tenderer who did not meet the minimum criteria, as set out in the contract notice and ITT document, would be set aside.

- **Commercial Evaluation (Price)**

- The financial assessment was based on the adjusted price for 2 Vessels.
- The adjusted price is the price provided by each Tenderer for the 2 Vessels, plus the buyer's anticipated project costs.

- **Technical Evaluation (Quality)**

- Tenderers were required to submit detailed responses to a number of technical questions relating to the evaluation criteria:

Skills and Resources Plan	16%
Project Management Plan	5%
Risk Assessment Plan	5%
Shipyards Installation Standards	10%
Delivery Schedule(s)	15%
Shipyards Layout	10%
Production Facilities	16%
Organisation Structure	16%
Supply Chain Management	5%
Refund Guarantee	Pass/Fail
Refund Guarantor	Pass/Fail
Investment Grade Ratings	Pass/Fail
Fair Work First	1%
Community Benefits	1%
Prompt Payment	Pass/Fail

- **Compliance with CMAL documents**

Draft Contract Shipyards Technical Specification	Pass/Fail
Draft Contract Shipyards General Arrangement Drawing	Pass/Fail
Shipyards Maker's List	Pass/Fail
Draft Shipbuilding Contract	Pass/Fail

- The technical responses were assessed by CMAL staff, an independent technical expert, and Specialist Technical Advisors.
- It should be noted that should a tenderer achieve a FAIL then they are eliminated.

- **Shipyards Visits** – no shipyard visits were undertaken

- **Sponsor Approval**

- Transport Scotland are informed throughout of the progress and status.
- Voted loan arrangements, across multiple funding years are finalised.
- Ministerial approval obtained to proceed with contract award.

- **Contract Award**

- Evaluation process summarised and presented to the CMAL Board with recommendations for award.
- Scottish Ministers informed of the outcome via Transport Scotland.

**b) Enhanced measures**

As an integral part of the "lessons learned" process there were a number of enhancements to the procurement processes, as compared to the experience of FMEL hulls 801 and 802, as summarised below including:

- Use of specialist third parties to assist with financial and technical evaluation.
- Use of an independent shipping brokerage to provide market intelligence.
- Regular financial health checks of the shipyard are being carried out throughout the term of the contract.
- More robust procedures regarding the refund guarantee – with only 100% refund guarantees against each milestone payment accepted.
- Legal advice concerning the procurement routes and also legal oversight at each step of the process leading to award
- Once the preferred bidder was identified the fine detail of the contract was the primary responsibility of CMAL but there was oversight given both legally and utilising shipbroking services.

**c) Stakeholder engagement**

An important aspect of any major project whether vessels or port infrastructure is engagement, we engage with:

- Transport Scotland
- the Operator (Calmac or Serco Northlink)
- Local Stakeholders, at both ends of any route
- Local Councils
- Unions

Their contributions and comments are registered and incorporated into the final design of the vessels where possible.

**d) Overall cost**

The overall costs comprise of the following aspects relating to the project:

- The core costs of the vessel, which is a fixed price, using the BIMCO Design and Build "NEWBUILDCON" which is an internationally recognised ship building contract.
- an allowance for Capital Spares and tools
- a contingency for any variations set at 3% of the core price
- costs of tendering, including professional fees for expert and legal assistance
- Site Supervision including living costs, flights, travelling and subsistence
- Classification and MCA (Flag State) costs attributable to the buyer (as opposed to the shipyard)
- Repositioning costs
- Trials, commissioning, crew familiarisation costs prior to the vessel entering service

**e) Milestone structure**

CMAL has a full-time site supervision presence from the commencement of fabrication, to ensure that the vessels each conform to the approved design and required quality and works with the shipyard on site – to ensure the project schedule and build quality are maintained.

The CMAL site team consists of experienced supervisors covering all major areas of the design and build of the vessel, such as steel, mechanical, outfitting, painting and electrical under the management of a Site Office Manager.

The Site Office Manager provides daily/weekly progress reports to the CMAL Project Manager throughout all stages of construction, ensuring all key and interim milestones are met, to allow certification of stage payments.

The shipyard will request in writing for a payment when a milestone is achieved. This is approved by both the site supervision team and also the appointed Classification Society. It is then presented as an invoice and is signed off by the CMAL Director of Vessels and the Chief Executive Officer.

In addition, as compared to the FMEL hull 801 and 802 milestone process, for these vessels the mere achievement of the milestone event (such as reaching a % of steel fabricated) is alone insufficient to trigger the payment for that work, but Cemre must also have obtained the necessary Class approval of all the design drawings up to that stage.

This acts as a third party confirmation of work completed, and relevant plan approvals obtained, for compliance with the minimum expected quality standards of Class and to eliminate the risk that plan approvals do not lag the fabrication process.

For the four Cemre hulls (1092/1093/1100/1101) the contractual milestone events are the same, as follows:

<i>Instalment</i>	<i>Milestone</i>	<i>Percentage</i>
1	Receipt of Refund Guarantee	30%
2	Steel Cutting	14%
3	Keel Laying	12%
4	Main Generator Sets on Board	12%
5	Launch	12%
6	Delivery	20%

## **f) Dispute resolution**

The NEWBUILCON shipbuilding contract is explicit regarding dispute resolution. Any dispute concerning the Vessel's compliance or non-compliance with the rules, regulations and requirements of the Classification Society or other Regulatory Authorities (the Flag State) shall be referred to the Classification Society or other Regulatory Authorities, as the case may be.

All other disputes shall be referred either to expert determination, as the parties may jointly nominate; or in Court by the Commercial Procedure in the Court of Session. The parties may also agree at any time to refer to mediation any difference and/or any dispute arising out of or in connection with the contracts.

## **g) Delivery dates**

The contractual delivery dates for each vessel are as follows:

- Hull 1092 – 15 October 2024
- Hull 1093 – 15 February 2025
- Hull 1100 – 16 June 2025
- Hull 1101 – 16 September 2025

## **h) Penalties for late delivery – per vessel**

The contractual penalties for late delivery, as liquidated damages payable by the shipyard to CMAL as the buyer, are the same for all four vessels:

Day 1 – Day 30	£10,000 per day
Day 31 – Day 90	£15,000 per day
Day 91 – Day 135	£20,000 per day
Maximum amount payable	£2,100,000

If the delay exceeds 180 days, CMAL as the buyer may cancel the contract in question and claim repayment of the advance instalments of the price from the Refund Guarantor bank.

## **Conclusion**

Considerable efforts have been made to strengthen the procurement processes, the expert oversight and advisory support that CMAL has taken in these projects.

I would be very happy to provide any further information that you may require for the Committee members better to understand the advances we have made in these areas in addition to the explanations provided above.

Yours sincerely

Morag McNeill  
Chair  
Caledonian Maritime Assets Limited