

**WRITTEN QUESTION TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES BY DEPUTY G.P. SOUTHERN OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 4th DECEMBER 2012**

Question

Given that in response to part (iii) of question 7196 on 6th November 2012, the Minister stated that discussions regarding terms and conditions were undertaken as part of the first stage tender evaluations, between October 2011 and end of January 2012, but later during oral questions that information concerning terms and conditions 'was very slow in forthcoming' - which of these versions is correct?

Did the Minister succeed or fail to ensure that bids were made on the basis of the transfer of all staff on the same terms and conditions of service based on a full understanding of those terms and conditions of service?

Answer

In relation to both of your questions please see paragraphs 2-4 of my response to Q7152:

2. Clause 18.3 of the Connex Contract states:

"On expiry of the Contract or early termination for whatever reason, the Committee shall or shall procure that any other body issuing tender documentation shall require in any tender documentation that the incoming service provider submit proposals that ensure that all of the Contractor's staff, with the exception of the general manager and any director of the Contractor, as at the date of the issue of any tender documentation are taken on by the incoming service provider on the same terms and conditions as apply at the date of the issue of any tender documentation and use its reasonable endeavours to facilitate the transfer of the staff from the Contractor to the incoming service provider provided always that the Contractor shall fully co-operate with both the Committee and the incoming service provider by providing them both with such employee information as is reasonably necessary for the Committee to compile any tender documentation and for bidders properly to price their bids and for the incoming service provider to take on the Contractor's staff."

3. There were two key elements to Clause 18.3, namely that:

- (a) TTS should require in any tender documentation that the incoming service provider submitted proposals that ensured that all of the Contractor's staff, with the exception of the general manager and any director of the Contractor, as at the date of the issue of any tender documentation were taken on by the incoming service provider on the same terms and conditions as applied at the date of the issue of any tender documentation (June 2011); and
- (b) TTS should use its reasonable endeavours to facilitate the transfer of the staff from the Contractor (Connex) to the incoming service provider.

4. The latter obligation was subject to the requirement that Connex fully co-operated with both TTS and the incoming service provider by providing them both with such employee information as was reasonably necessary for TTS to compile any tender documentation, for bidders properly to price their bids and for the incoming service provider to take on Connex staff.

In relation to your question 1: as per my answer to your question Q7196, this process was undertaken, as for all tenderers, as part of the First Stage Tender evaluations between mid October 2011 and end of January 2012. In this regard, TTS was obliged to rely on the employee terms and conditions information with which it was provided by the employer of the staff in question, ie. the sitting contractor.

In relation to your question 2:

- No, there was no obligation to "deliver the transfer of all staff "on the same terms and conditions"". The relevant obligations are those set out at paragraphs 2 and 3 of my response to Q7152 – please see above.
- Information about key terms and conditions is found at paragraph 14 of my response to Q7152 from which it will be noted, amongst other things:

"CT Plus's annual salary for the contracted basic 39 hours will be slightly higher than at tender".

Given the agreement reached at the mediation meeting on 10 October 2012, it would not be appropriate for me to go into further detail about matters which the relevant parties are now addressing together.