



G Scott
Sent by email: request-675103-
e5d6f862@whatdotheyknow.com

Our ref: 202000058755
7 August 2020

Dear G Scott

REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

Thank you for your request dated 8 July 2020 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

“I would like to make a freedom of information request for the next ten sets of minutes of meetings dated after the last one you sent me in foi 2020 00045872, relating to Bifab (Burntisland Fabrications).”

Response to your request

While our aim is to provide information whenever possible, in this instance we are unable to provide some of the information you have requested because of exceptions under section 30(b)(i) – free and frank provision of advice; section 30(b)(ii) – free and frank exchange of views; section 33(1)(b) – commercial interests; and section 38(1)(b) – personal data of a third party. The reasons why these exceptions apply are explained in the Annex A to this letter.

The information that we are able to provide is included in Annex B to this letter.

I note that you have made similar requests for minutes of meetings relating to BiFab under FOISA (FOI202000045872 and FOI202000058749) for which responses have been provided. However, I would like to highlight that, under Section 14(1) of FOISA, the Scottish Government does not have to comply with requests that are vexatious. Therefore, I must advise that, should you make any further requests that are similar in scope to your previous requests for information, the Scottish Government will be under no legal obligation to provide you with the information that you have requested.

The Scottish Government participates in and hosts a high volume of meetings relating to BiFab, with a variety of different stakeholders. Thus, a high volume of meetings fall under the scope of your request and it might be the case that some of

these meetings are not of interest to you. For further context, and as the information released to date will indicate, Scottish Government officials have met and will continue to meet with Ministers, developers, tier 1 suppliers, DF Barnes, Grant Thornton, MacRoberts, BiFab, and trade unions to discuss BiFab – not to mention a number of daily meetings at an official level.

If you wish to make further requests for minutes of meetings relating to BiFab, I would kindly suggest that you make your request more focussed to a particular meeting. Doing so would allow Scottish Government officials to search for the specific minute in question, rather than conducting a wide ranging search for any minutes that might relate to BiFab.

Your right to request a review

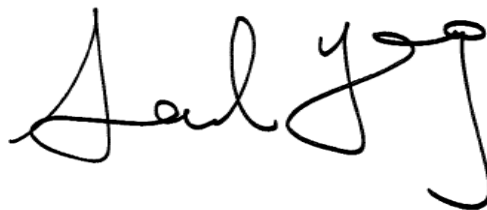
If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Kersti Berge, Director, Energy & Climate Change Division at kersti.berge@gov.scot. Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

I hope you have found this response helpful.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Andrew Young', with a stylized, cursive script.

Andrew Young
Energy Supply Chain Policy Officer

ANNEX A – EXEMPTIONS APPLIED

Exemptions under Sections 30(b)(i) (free and frank provision of advice) and 30(b)(ii) (free and frank exchange of views) of FOISA apply to some of the information requested. These exemptions apply because disclosure would, or would be likely to, inhibit substantially the free and frank provision of advice and exchange of views for the purposes of deliberation.

Section 30(b)(i) recognises the need for Ministers and officials to receive advice within a private space before the Scottish Government reaches a settled public view. Similarly, Section 30(b)(ii) recognises the need for Ministers and officials to have a private space within which to discuss issues and options with external stakeholders before the Scottish Government reaches a settled public view. Disclosing certain aspects of the content of these discussions with Burntisland Fabrications Ltd (BiFab), DF Barnes, Grant Thornton, and our Enterprise Agencies would substantially inhibit such discussions in the future, because these stakeholders would be reluctant to provide their advice and views fully and frankly if they believe that those views are likely to be made public. This is a particular risk when discussions relate to a sensitive or controversial issue such as commercial negotiations.

These exemptions are subject to the ‘public interest test’. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable governance, and to inform public debate. However, there is a greater public interest in allowing Ministers and officials to have a private space within which to communicate with appropriate external stakeholders as part of the process of exploring and refining the Government’s position on commercial or financial information, until the Government as a whole can adopt a decision that is sound and likely to be effective.

This private space is essential to enable all options to be properly considered, so that good decisions can be taken based on fully informed advice and evidence. Premature disclosure is likely to undermine the full and frank discussion of issues between the Scottish Government and these stakeholders, which in turn will undermine the quality of the decision making process, which would not be in the public interest.

An exemption under section 33(1)(b) (commercial interests) of FOISA applies to some of the information requested. This exemption applies because disclosure of this particular information would, or would be likely to, prejudice substantially the commercial interests of BiFab and DF Barnes. Disclosing this information would be likely to give BiFab’s competitors an advantage in future similar tendering exercises, which would substantially prejudice the company’s ability to submit competitive tenders and could significantly harm their commercial business.

This exemption is subject to the ‘public interest test’. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing

the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open and transparent government, and to help account for the expenditure of public money. However, there is a greater public interest in protecting the commercial interests of companies that enter into contracts with the Scottish Government, thus ensuring that we are always able to obtain the best value for public money.

Exemptions under Section 38(1)(b) (personal data of a third party) of FOISA applies to some of the information requested. This exemption applies to the names of third parties referenced throughout the documents that have been requested. The Scottish Government has a policy of not disclosing the names of officials who are not Senior Civil Servants, therefore the names of some Scottish Government, Scottish Enterprise, and Highlands & Islands Enterprise officials have been redacted. The names of BiFab and DF Barnes employees who are not BiFab board members, and the names of our commercial advisors, have also been redacted to protect their privacy.

Scottish Government call with Jason Fudge – 7 May 2020

Present

DF Barnes

Jason Fudge (JF)

Grant Thornton (GT)

[Redacted]

Scottish Government

Andy Hogg (AH)

[Redacted]

Key Points:

[Redacted]

- JF noted that he believed there were material changes to the [Redacted] at short notice. [Redacted].
- AH referenced fact that key areas of concern flagged by BiFab – [Redacted] – were based on commercial advice on most recent [Redacted] provided by the business, only recently provided
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

[Redacted]

- JF said he was [Redacted]
- [Redacted] noted that Taylor Wessing & MacRoberts were in discussions on [Redacted] last night so it may now be resolved
- JF view this could be [Redacted] later this afternoon

[Redacted]

- JF noted no response from [Redacted], but that was to be expected. Advising [Redacted] will be Monday.

**Cabinet Secretary for Economy, Fair Work and Culture call with EDF
Renewables – 14 May 2020**

Attendees:

Fiona Hyslop MSP, Cabinet Secretary for Economy, Fair Work & Culture (FH)

Matthieu Hue, CEO EDF Renewables

Matthias Haag, Project Director, Near na Gaotihe (NnG)

[Redacted]

Andy Hogg, SG

[Redacted] SG

-
- FH - interested to hear about EDF projects particularly NnG and the impact COVID
 - Matthieu - been developing renewables in Scotland for 10 years. Keen to do more in Scotland and very important to the company. Opened in an office in Edinburgh which houses 100+. Extensive portfolio across UK majority in Scotland. Majority of activity in onshore wind and of course NnG in offshore keen to do more and looking to bid into ScotWind. Plus solar PV and battery but not really in Scotland at the moment. Keen to work closely with supply chain and the local community proactively engaging with opportunities for the Scottish supply chain on NnG. Circumstances of COVID is challenging for all the company and isn't - at the moment - [Redacted], not furloughing anybody nor have any intension to do so. Looking to continue operations safely and following the guidelines, and in consultation with communities and contractors. Looking at new ways of working - spoke to Mr Wheelhouse last week and welcome the engagement with SG Ministers and officials.
 - Construction - Burnwood East has stopped and NnG; but now slowly looking at ways to restart activity.
 - FH - value the relationship with EDF. Renewables will continue to be a key part of our industrial future. Especially in current climate in a green recovery. Pleased that Eyemouth has Operations & Maintenance and Dundee to be a catalyst to support wider supply chain. Encouraged that Saipem discussions are moving to conclusion.
 - Seen as a country that operates safely and give the workforce confidence to return to work. Finding ways to engage the community and potential local politicians to inform of what is going to happen.
 - Opportunity to showcase Scotland from end to end from development to community engagement
 - Matthieu - community engagement is key to us and will share the feedback with us. On supply chain, there are challenges to increase the local content. What we see that there a lot of SMEs that can provide services but difficult to find larger companies (Tier 1/2)

- Companies like [Redacted] have worked proactively but challenges to be competitive remain, as others out with Scotland. Companies need to work together collaboratively to make a greater offering.
- FH - build on resilience to ensure supply chain is competitive and offer a product. Important area and we need to work together to improve. There will be more demand for renewable energy so there is a real opportunity.
- FH - keen to meet face to face when we can.
- Matthieu - planning on the approach Scotland takes and a strategy behind that, grid is key to ensure future development
- FH - as part of COVID speaking to UK Government impressing on them to [Redacted].
- Matthieu - recent Contracts for Difference (CfD) announcement on the reintroduction of onshore wind and solar and the consultation will prove fruitful.

Scottish Government call with Local Management – 18 May 2020

Present

BiFab

Martin Adam

[Redacted]

[Redacted]

Grant Thornton

[Redacted]

Scottish Government

[Redacted]

[Redacted]

[Redacted]

Neart na Gaoithe (NnG)

- [Redacted].
- [Redacted].
- [Redacted].
- [Redacted].
- [Redacted].
- [Redacted].

[Redacted]

- BiFab haven't had any formal correspondence from [Redacted] since the [Redacted]. Only email they have received was from the [Redacted]. BiFab will discuss with [Redacted] to see if they have any concerns with this.

First E&P (FEP)

- Payment was made to BiFab and the jacket sailed on 8th May 2020. BiFab have not heard from First E&P since. Feedback from BiFab was that FEP management may [Redacted]. [Redacted].

[Redacted]

- BiFab are still in discussion with [Redacted] and remain optimistic they will be awarded fabrication work. [Redacted].

Covid-19

- Now that FEP contract is complete there will be [Redacted] come back for final review of the yards everything is in place.
- Local management have set up groups within teams to focus on how they can work on the yards whilst social distancing, ensuring they are compliant with guidance.

Scottish Government call with Enterprise Agencies – 20 May 2020

Present

Scottish Enterprise

[Redacted]

Highlands and Islands Enterprise

[Redacted]

Scottish Government

[Redacted]

[Redacted]

[Redacted]

SG provided the following updates;

- BiFab have [Redacted] following [Redacted].
- BiFab are in full receipt of First E&P project payments [Redacted].
- [Redacted] contract discussions are going well between BiFab and [Redacted] with contract signing likely to be [Redacted].
- [Redacted] news story over the weekend implied BiFab were getting no work but after discussions with local management they are still confident BiFab will receive work [Redacted].
- [Redacted] gave a short update on BiFab Board meeting from 29 April.

SE thanked SG for their updates and made the following points;

- SE are speaking to Martin Adam to look at what BiFab can do to get steps in place before the next contract begins, particularly with covid-19. Sharing other businesses best practice.
- BiFab still have [Redacted] training left in the financial year looking at maintaining standards – these will need to be virtual going forward. Conversation to take place between [Redacted] and BiFab to discuss next steps with training.

Scottish Government call with BiFab Local Management – 26 May 2020

Present

BiFab

Martin Adam

Scottish Government

[Redacted]

[Redacted]

Key Points:

[Redacted]

- [Redacted] phoned Martin late yesterday evening, stating that he was going to send through a full set of [Redacted] to BiFab today, asking BiFab to consider if it could make [Redacted]
 - *SG note: this is a [Redacted] from [Redacted] to that set out in the [Redacted]to [Redacted]*
- As at the time of the call (1.30pm) [Redacted] had been provided by [Redacted]
- [Redacted] did not provide a turnaround time. Martin Adam thought BiFab would need [Redacted]
- No suggestion from [Redacted] it would be for [Redacted]
- MA said [Redacted]has previously acknowledged and accepted there would always be a [Redacted]when [Redacted]BiFab to [Redacted]
- MA said BiFab's [Redacted]as previously submitted to SSE [Redacted]
 - This equated to [Redacted]– comparable with the [Redacted] it quoted on [Redacted], in MA's view, once inflation was accounted for (at which time, BiFab was [Redacted] than [Redacted])
- [Redacted]:
 - (i) if the [Redacted] is procured from [Redacted]. The [Redacted], with the vast majority of [Redacted]procured from [Redacted], and rolled in [Redacted]. MA believes to do so would be [Redacted] for [Redacted] and [Redacted] for prior experience with [Redacted]
 - (ii) if the [Redacted] (currently [Redacted]) – this would be for the business to decide if commercially acceptable to it
 - *SG note: an Andy/Jason call on this could be useful – will look to set up a general catch up, and possibly put this on the agenda [Redacted]to action please*
- If SSE [Redacted]its proposed award to BiFab [Redacted], MA believes a value of [Redacted]could be achieved.
- BiFab's assumption is that if it is successful, the award will be [Redacted]

Other

- Martin to speak to Matt re sharing paperwork on [Redacted]– has not been sent yet as the ask has first been made of JVD (no response to date)

- Weekly SG/BiFab catch up slots to be put in the diary (SG to arrange – [Redacted] to action please)
- Call with [Redacted] re [Redacted] just agreed for Thursday (with [Redacted] and Jason Fudge)

Ms Hyslop and Mr Wheelhouse call with SSE Renewables – 28 May 2020

Present

Scottish Government

Fiona Hyslop MSP, Cabinet Secretary for Economy, Fair Work & Culture

Paul Wheelhouse MSP, Minister for Energy, Connectivity and the Islands

Andrew Hogg

[Redacted]

Stewart Maxwell (Special Advisor)

SSE Renewables

Jim Smith, Managing Director

[Redacted], SSE Corporate Office

Key Discussion Points:

- Cabinet Secretary stressed the importance of delivering economic benefits to Scotland from the Seagreen project, essentially in these current times.
- Jim Smith (JS) commented on the [Redacted].
- JS referenced the [Redacted] of all [Redacted] following his meeting with [Redacted], in particular a thorough review of what [Redacted] could undertake. This highlighted that [Redacted] could be made to [Redacted] as this would limit risk but [Redacted] they were [Redacted] than the average [Redacted]. Saying [Redacted] expected [Redacted] for giving [Redacted] but due to the [Redacted].
- Cabinet Secretary reiterated the point that during these unprecedented times Scotland needs all to play their part in supporting each other by awarding contracts to indigenous companies.
- Minister highlighted that the [Redacted].
- JS responded by acknowledging that and highlighted [Redacted] and other [Redacted] projects will deliver economic benefits.
- Cabinet Secretary stated that she would need to reflect on this position prior to speaking in the Parliament on Tuesday in a debate about the green recovery.
- JS commented if [Redacted] but time was of the essence and a decision would need to be early next week. He also referenced he was due to speak to both Unite and GMB Scotland the following day about the project.

First Minister and Ms Hyslop call with SSE renewables – 1 June 2020

Present

Scottish Government

First Minister

Cabinet Secretary for Economy, Fair Work & Culture

Andrew Hogg

[Redacted]

SSE Renewables

Alistair Phillip-Davies (CEO, SSE PLC)

Jim Smith (Managing Director, SSE Renewables)

[Redacted] (SSE Corporate Office)

[Redacted] (SSE Corporate Office)

Key Discussion Points:

- First Minister acknowledged the efforts [Redacted] had undertaken since [Redacted] financially and the wider benefits it could bring to Scotland.
- First Minister expressed her profound concern about all 114 jackets being fabricated in China and as a result a missed opportunity for Scotland's supply chain. If the decision remains it will bring enormous media attention to SSE and it would be very difficult for the government not to make comment.
- She continued by stressing the importance of delivering economic benefits to Scotland from the Seagreen project, especially in these current challenging times, referencing SSE's Greenprint document last week which highlights this theme.
- [Redacted].
- APD highlighted that supporting local supply chain will become more challenging in the future if costs continue to fall, with investment required in infrastructure to make the companies more competitive. [Redacted].
- First Minister stated that officials had explored a number of options to assist but were [Redacted] from doing so. She acknowledged that [Redacted] and the way to do so was the [Redacted].
- APD admitted that he would reflect [Redacted] on conclusion of [Redacted], committing to speak again to the First Minister later in the week.

Actions

- **APD to contact First Minister following the conclusion of [Redacted].**

Scottish Government call with BiFab Local Management – 1 June 2020

Present

BiFab

Martin Adam

Scottish Government

[Redacted]

Cab Sec's request on any potential [Redacted]and [Redacted]for [Redacted];

- Officials spoke to Martin Adam, the Managing Director of BiFab, in the afternoon of 1 June to discuss the Cabinet Secretary's request that it consider what, if any, [Redacted].
- Martin Adam referenced his wish for [Redacted] to the [Redacted] in [Redacted] of the [Redacted], to increase the [Redacted] of the [Redacted]. Whilst this would reduce the amount of time workers were required to work outdoors (where the risk of bad weather impacting productivity exists), it would [Redacted] to SSE as [Redacted] would be minimal. This proposal was, we understand, discussed at high level with SE around a year ago but not progressed at the time, due to the business' concern as to [Redacted].
- Officials were also advised by the Managing Director in the afternoon of 1 June that the documents provided by [Redacted]late last week (which BiFab were asked to [Redacted] and [Redacted]if there was scope for [Redacted] have now gone through their first phase of review, and that these in fact [Redacted]. Some of [Redacted] – such as an increase of the [Redacted] in areas – the business is prepared to [Redacted].
- However, the drawings provided on 28 May from [Redacted]now require BiFab to provide [Redacted] within the [Redacted]. Martin Adam advises that the [Redacted], would need to be [Redacted].
- BiFab's local management team is discussing the [Redacted] to [Redacted] with DF Barnes tomorrow, and has requested [Redacted]be undertaken by the Canadians. Local management has a desire [Redacted], but state that DF Barnes is [Redacted] of [Redacted]. Martin Adam indicated that a call between BiFab and SG officials this week may help [Redacted]– but does acknowledge that any [Redacted] would not [Redacted] the [Redacted] between [Redacted]. The company does not expect to respond to [Redacted]until the end of this week – noting that [Redacted] did not set an earlier deadline for a response.
- BiFab's [Redacted] as quoted to [Redacted] assumes that [Redacted] can be obtained at [Redacted]. However, given JV Driver's [Redacted] – and [Redacted] – subject to the relevant approvals, it could be the case that [Redacted]is asked to [Redacted]. To do so, the contract would need [Redacted] – and thus, even if BiFab was to [Redacted] it would need to be [Redacted].

Scottish Government call with Commercial Advisors – 1 June 2020

Grant Thornton (GT)

[Redacted]

[Redacted]

[Redacted]

Scottish Government

Andrew Hogg

[Redacted]

[Redacted]

[Redacted]

Immediate/Short Term Strategic Direction

- GT to speak to BiFab Local Management about [Redacted]the [Redacted]as it is [Redacted]and this is the right time to carry this out between contracts.
- BiFab need to be [Redacted].
- More analysis needed on the [Redacted] on a [Redacted] and to [Redacted]

Medium Term Strategic Direction

[Redacted]

- Internally we need to get the [Redacted].
- Negotiate with [Redacted] and [Redacted] what a [Redacted] would look like and take this to [Redacted] with GT advice. Need to be confident that we have the right advice to go on this.
- Start to look at what steps we need to take to [Redacted].
- Important that we engage appropriately with [Redacted].
- Is there any scope for investment in the yards in terms of new material etc for future fabrication work?
- Conversation with the SG procurement team on rules and regulations before [Redacted].

[Redacted]

- GT advice would need to be sought as to whether or not the [Redacted] whilst looking at [Redacted].
- After looking at [Redacted], should [Redacted] be made, from a SG prospective, as [Redacted] and what [Redacted].

Actions

- Main next steps is to; a) focus on [Redacted] and b) Start to look at [Redacted] and [Redacted] if [Redacted] (whilst taking into consideration other contracts such as [Redacted]).
- GT to discuss changing [Redacted] and [Redacted]on next BiFab local management call.
- GT to look at scope of work for strategic direction and revert back if it is still [Redacted].
- SG to expand on scope of work points circulated in the agenda looking at the type of things we need to know, how we can do that and by when.
- GT to email Andy with initial thoughts for First Minister note.

- Agree a date/time for next week's meeting which will focus on breaking down points into discrete actions.

Scottish Government call with BiFab Local Management – 2 June 2020

Present

BiFab

[Redacted]

[Redacted]

Grant Thornton

[Redacted]

[Redacted]

Scottish Government

[Redacted]

[Redacted]

Update from Local Management (LM):

[Redacted]

- Ongoing discussions as they prepare for [Redacted]. [Redacted] Director and Martin Adam have a call tomorrow to discuss whether there is [Redacted]

[Redacted]

- MacRoberts received further correspondence from Brodies on [Redacted] which they are due to respond to before Friday. Local management working with [Redacted] on that response.
- [Redacted]. BiFab agreed to show [Redacted] their final [Redacted] by Friday.
- [Redacted] will see [Redacted] and BiFab's review of the [Redacted] and revert back.
- BiFab put the position to [Redacted] that they are [Redacted].

[Redacted]

- Ongoing weekly meetings/email exchanges with regards to pricing and contract terms and conditions. Hopeful after a conversation on Thursday they will be able to go to the board for approval.
- It was initially meant to be [Redacted] but this is likely to go back to [Redacted]. BiFab will check the effect this may have on [Redacted].
- [Redacted] discussed previously of [Redacted] is now likely to be [Redacted] and there still needs to be [Redacted]. Still unclear what this will look like but will send on the information for this once known.
- Intention is to be in [Redacted] with effective start date [Redacted].

[Redacted]

- On 27/05 BiFab received confirmation that [Redacted] would be sending out the enquiry but [Redacted].

- Working through the [Redacted] – initial comments are the [Redacted] and [Redacted] have now asked for [Redacted]. Final submission to [Redacted] at some point early next week.
- Conversations have just been focussed on [Redacted] and BiFab have not yet seen anything on [Redacted].
- BiFab Local Management and GT were then going to pick up on [Redacted] and [Redacted]. SG dialled off.