

Annex 5 - emails regarding the collection and provision of TUPE information for C077/2023/2024

From: [redacted – WG Official 1] (ETC - Business and Regions) <[redacted - WG Official 1]@gov.wales>
Sent: Thursday, July 13, 2023 10:38 PM
To: [redacted – Newable 1] <[redacted – Newable 1]@newable.co.uk>
Cc: [redacted – WG Official 4] (ETC - Business and Regions - Business Wales) <[redacted – WG Official 4]@gov.wales>
Subject: RE: TUPE Information for Business Wales Accelerated Growth Programme Re-procurement (BLANK) June 2023

Dear [redacted – Newable 1]

Thank you for completing and returning the TUPE information, of which I confirm safe receipt. I have been able to open the file and all appears to be in order.

Thanks once again
Regards
[redacted – WG Official 1]

From: [redacted – Newable 1] <[redacted – Newable 1]@newable.co.uk>
Sent: Thursday, July 13, 2023 11:20 AM
To: [redacted – WG Official 1] (ETC - Business and Regions) <[redacted - WG Official 1]@gov.wales>
Cc: [redacted – WG Official 4] (ETC - Business and Regions - Business Wales) <[redacted – WG Official 4]@gov.wales>
Subject: RE: TUPE Information for Business Wales Accelerated Growth Programme Re-procurement (BLANK) June 2023

Dear [redacted – WG Official 1]

As requested, we have completed an updated TUPE spread sheet (we retained the password) and this is attached along with the bullet points Word Document on roles.

I would be grateful if you could confirm safe receipt and that all is in order.

With kind regards

[redacted – Newable 1]

From: [redacted – WG Official 1] (ETC - Business and Regions) <[redacted - WG Official 1]@gov.wales>
Sent: Monday, July 3, 2023 3:39 PM
To: [redacted – Newable 1] <[redacted – Newable 1]@newable.co.uk>
Cc: [redacted – WG Official 4] (ETC - Business and Regions - Business Wales) <[redacted – WG Official 4]@gov.wales>
Subject: TUPE Information for Business Wales Accelerated Growth Programme Re-procurement (BLANK) June 2023

Dear [redacted – Newable 1]

Request for Provision of TUPE Information for Business Wales Accelerated Growth Programme

Welsh Government is intending to commence procurement of Business Wales Accelerated Growth Programme Services. The new procurement activity will replace the current Business Wales Accelerated Growth Programme Services and therefore it is possible that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) (TUPE) will apply to the re-tendering of the Contract.

You will be aware that in addition to your obligations under TUPE, you are contractually required pursuant to the provisions of clause 33 of the Contract to provide us with the staffing information as and when requested.

In order to assist you with this obligation, and to ensure that all bidders for this Contract can properly assess their potential employment liabilities and indicate their plans for the transferring staff, we will supply this information in anonymised format to bidders during the tendering process. If a new provider wins the Contract and it is clear that TUPE will apply to the re-tendering, we will subsequently ask you to provide updated staffing Information (including transferring staffs' identities) no less than 28 days before the Transfer Date.

I would be grateful if you could complete the TUPE information spreadsheet for the existing staff that are engaged on the Contract for the majority of their working time and who may be subject to a TUPE transfer if the Contract is awarded to a new provider. Please do not make any alterations to the format of this form. The blank form is currently password protected (Redacted file password). You may change this when you submit your response; please text me the password you choose on my mobile, [redacted – WG Official 1 mobile number].

Details of staff likely to be transferred should be identified by a reference number not by their names. This information must be updated, to include the staffs' identities, no less than 28 days before the Transfer Date.

Please also attach the employment documentation required when submitting your response. We intend to make this information available to bidders as part of the tender process and will require bidders to enter into confidentiality agreements in advance of the disclosure. Welsh Government has set out a process where potential Bidders must request this data via the e-Tender Wales portal by submitting a signed Confidentiality Agreement, which includes an obligation on the Requestor to delete the information at the end of the procurement exercise.

On advice from Blake Morgan, Welsh Government legal advisors for this procurement, it is the responsibility of any incumbent and new Suppliers to establish whether TUPE may apply and to what extent. It is also the responsibility of both incumbent and new Suppliers to agree with each other the timeline for transfer of any team members protected by TUPE rights. It is not for the Welsh Government to involve itself or facilitate these discussions.

I would be grateful if you would facilitate the completion of the attached spread sheet and return this to me by email by 5pm on Monday 17 July 2023. If you have any questions please do not hesitate to contact me by email.

Finally I would also like to draw your attention to the other provisions in clause 33 of the current Agreement and in particular those at clause 33.10. which we require you to comply with.

Regards
[redacted – WG Official 1]