

Friday, 23 November 2012

Office of the Auditor General
Level 2, State Services Commission Building
100 Molesworth Street
Thorndon, Wellington 6140
By email (enquiry@oag.govt.nz)

Dear Ms Provost,

I am writing to request under s18 of the Public Audit Act 2001 that you conduct an urgent investigation into the tendering and decision-making processes that Kiwirail has used to procure rail wagons in the last two years. I also ask that you investigate the extent and appropriateness of political involvement and interference in tendering decisions made by the Kiwirail Board, which has blocked proposals from Hillside and Kiwirail management for rail carriages to be built at the Hillside Workshops in Dunedin.

This letter follows up on a previous request dated August 7 2012 that you investigate the adequacy of evaluations for the contracts entered into between KiwiRail and China North Rail.

It has been three months since I last wrote to you and since then a further 90 workers from Hillside have been laid off. The Hillside Foundry has been sold to a private buyer, which will employ just 18 staff and a skeleton Kiwirail staff will man the heavy lifting equipment that will be kept on the Hillside site. This once proud manufacturing and maintenance workshop has been brought to its knees by deliberate decisions of the Kiwirail Board and shareholding Ministers to block on-going contract work. The rationale for this has been an insistence on a lowest cost approach to tendering and the belief that Kiwirail no longer needs a rail manufacturing facility in the South Island.

Leaving aside the policy implications of this, the Government has consistently claimed that the decisions made by the Kiwirail Board are operational and that it has not issued directions to require Kiwirail to choose the lowest cost bidder for rail wagons, or to require Kiwirail to run down and divest itself of core capacity at Hillside. I contend that this is simply not true and ask that you investigate.

The second issue is around 'value for money' and whether the tendering decision to purchase 300 wagons from CNR was value for money at the lowest price, given the serious flaws that have been exposed in the rail wagons and locomotives purchased by the Government offshore. I contend that Kiwirail deliberately manipulated the figures for the Hillside tender for the 300 wagons to increase overheads that inflated the price while ignoring the flow on effect to the domestic economy of a local build.

Finally, a new piece of information requires your investigation:

On 27 September 2012 at a meeting of the Kiwirail Mechanical Division, a senior management figure, _____, told participants that Kiwirail management had done its best to secure contract work for Hillside and had put forward a cost-competitive proposal to the board to produce 100 wagons a year at Hillside.

There were two reasons for this:

1. The bigger tenders, which China North Rail had secured were on hold because of Kiwirail's financial position and the ongoing faults with the Chinese wagons
2. To ensure Hillside could be a going concern or a buyer.

Mr [redacted] told the meeting that the proposal had been knocked back by the Kiwirail Board. He said that an attempt to get the support of the Dunedin-based National Party List MP Michael Woodhouse had also been knocked back. He said that it had been communicated that it was a “shareholder decision” to refuse Hillside the work, despite the competitiveness of the proposal.

The occurrence of this meeting on 27 September and the contribution by Mr [redacted] can be verified by John Kerr, the RMTU organiser for the South island who was present.

I also understand that Mr [redacted] told a Hillside delegate meeting prior to last week’s announcement of the partial sale and closure of Hillside that the Kiwirail Board stated their intention two years ago to close Hillside. If so, this demonstrates that there was never any intention to allow Hillside to secure on-going contract work and the tendering processes have been farcical and meaningless.

The shareholding Ministers for Kiwirail are Finance Minister Bill English and SOE Minister Tony Ryall. As shareholding Ministers they are obligated to table directions given to the Board of Kiwirail in the House of Representatives. I ask that you investigate whether there were directions given to the Board of Kiwirail relating to the production of wagons at Hillside and the future of the Hillside Workshops, and if so, why these directions were not tabled.

The actions of Kiwirail, its board and shareholding Ministers also potentially represents a breach of the social responsibility clause of the State Owned Enterprises Act.

I ask that the OAG urgently undertake an inquiry into the flawed tender processes and decisions and the blocking of valid Hillside tenders and potential political interference in the operational decisions of Kiwirail.

This is an issue of significant importance.

Thank you in advance, if you require any further information or supporting documents please contact my Wellington office on 04 817 9906 or by email clare.curran@parliament.govt.nz.

Yours Sincerely

Clare Curran
MP for Dunedin South