Department for Transport knew it risked legal challenge over West Coast franchise

The Department for Transport knew seven months ago that it did not have the correct methods to evaluate multi-billion pound bids for the West Coast rail franchise and that it risked a legal challenge from one of the train operators competing for the contract.

Virgin is in negotiations with the Department for Transport over a temporary contract to run the West Coast Main Line after the current franchise expires in December Photo: PA

By Nathalie Thomas

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The damning revelation is one of several initial findings from an investigation into the fiasco, which found that despite their knowledge of the problems, officials at the DfT still pressed ahead with the “flawed" process.

A preliminary report **published on Monday** by Sam Laidlaw, the boss of energy giant Centrica and a DfT non-executive, raised serious concerns about the “ability of the DfT to effectively conduct rail franchise competitions”. The whole process was “developed late, in a hurry and without proper planning and preparation”.

Mr Laidlaw was asked earlier this month to lead an inquiry into the affair after Transport Secretary Patrick McLoughlin **was forced to scrap the competition** for the lucrative contract.

Mr Laidlaw found the DfT was aware at the start of this year that there was a “lack of transparency” over how it would calculate the amount of money train operators would have to put up as a kind of insurance against their bid running into trouble.

Officials at the department did not have time to develop a specific model for calculating the “subordinated loan facility”, the key part of the risk capital that bidders would have to agree to forfeit if they failed to meet the terms of their contract.

Instead, the department used a model developed for different purposes, which officials knew would likely be questioned by the bidders if it was made available to them.

Mr Laidlaw said the DfT decided in March - five months before the winning bidder was announced in August - not to disclose the model it was using “and to accept the risk of challenge”.

Virgin Rail Group, a joint venture between Sir Richard Branson’s Virgin Trains and Stagecoach, sought a judicial review of the DfT’s “insane” decision to award the franchise to FirstGroup. Former Transport Minister Theresa Villiers vowed to “robustly defend” the case before the Government was forced into an embarrassing volte face at the start of this month.

The preliminary report also paints a picture of chaos at the DfT, which had “significantly” reduced its headcount to meet Government cost savings.

The most senior officer responsible for the West Coast contract changed three times during the course of the competition.

There was also a “lack of clarity in roles and responsibilities” within the team working on the West Coast franchise and key members were “relatively junior and inexperienced”, according to the report.

Mr Laidlaw said there were also “inconsistencies” in the way Virgin Rail Group and the preferred bidder, FirstGroup, were treated during the process.

Mr McLoughlin **admitted to MPs that the preliminary report made for “uncomfortable reading”** but insisted the findings were just a “first stage”. A full report will be published by the end of next month.

Virgin said Mr Laidlaw’s findings raised “fundamental questions around why more favourable treatment was given to one bidder over another and the lack of a clear and consistent account of how and what decisions were made”.

FirstGroup said it was “extremely disappointed and dissatisfied that, as a result of Government’s reversal of its decision, taxpayers and West Coast passengers will not benefit from the better deal that our strong bid would have delivered”.