



Eich cyf/Your ref
Ein cyf/Our ref ATISN 10119

18 February, 2016

Dear

Request for Information – ATISN 10119

I wrote to you on 27 January regarding your request for information. In relation to the 2011 Highways Technology Contract, you asked for:

1. A list of the companies which responded to the PQQ stage, indicating which were successful;
2. A list of respondents to the ITT;
3. Copies of all tender submissions of all respondents including price breakdowns;
4. Full details of the numeric and/or qualitative evaluation scores which were used as the basis for the final decision;

I confirm that we hold information relating to your request. However, I have concluded that the information is exempt from disclosure under Section 43 – commercial interests of the Freedom of Information Act 2000. Full reasoning for applying this exemption is given at Annex A to this letter.

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at:

Information Rights Unit, Welsh Government, Cathays Park, Cardiff, CF10 3NQ or
FreedomOfInformationOfficer@wales.gsi.gov.uk.

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at: Information Commissioner's Office,

Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.



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Cathays Park
Cardiff
CF10 3NQ

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

ANNEX A

ATISN 10119 - Consideration For and Against Disclosure of Information

Decisions relating to non-disclosure have been taken with due consideration of the exemptions identified under Section 43(2) of the Freedom of Information Act 2000 (FOIA). This states that information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

Section 43 is a qualified (public interest tested) exemption. This means that in order to engage it, I must show that the public interest in withholding the information is greater than the public interest in releasing it. I have therefore given consideration to the effects of disclosure of the information to the world at large as the information is made available to anybody and everybody, not just the requestor. As such, when considering your request I have considered the wider effects of disclosure rather than any personal interest you may have in being provided with the information.

Public Interest Test

There is a public interest in openness and transparency within government, particularly in terms of ensuring transparent and accountable government by disclosing how the Welsh Government spends public money and that the money is invested wisely.

However, the information captured by the request is commercially sensitive to the companies involved in the whole tendering process. The documents and information requested reveal information that would be likely to prejudice their service offering and when tendering for future work. We believe that to place this information into the public domain would be likely to put the companies at a commercial disadvantage in what we recognise is a very competitive market.

The information requested reveals financial information, the skills, approach and processes in place by those companies, including current practices, methodologies and quality of service that have been developed specifically for these type of works. This level of detail is necessary when completing the required paperwork and it differentiates them from their competitors. Whilst this information would be of interest to the company's competitors, I do not believe that it would be of interest to the wider public and would be likely to prejudice the commercial interests of the businesses involved. It would also be likely to prejudice the companies affected in securing future potential contracts because competitors would have access to a level of detail that they otherwise wouldn't have. I do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest.

In conclusion, I believe that the balance of the public interest therefore falls in favour of withholding this information.