



Llywodraeth Cymru
Welsh Government

04 March 2016

Dear

ATISN 10169 – COPIES OF CONTRACTS AND CONTRACT END DATES

Thank you for your request which I received on 05 February 2016. Your full request asked for “a copy of the contract for systems provided by Millstream Associates Limited (sell2wales) and Bravo Solutions (e-Tender Wales Portal). Further to this you requested the annual expenditure to date, start and end dates for both contracts and whether the option to extend the contract is available and for what period”.

In order to respond appropriately, I have broken down your request according to the type of response I can provide:

- The annual expenditure to date, start and end dates for both contracts (Sell2Wales and Bravo) and whether the option to extend the contract is available and for what period.

The information you requested is enclosed below.

Sell2Wales (Millstream Associates Limited)

Contract Start: 01/01/2013

Contract End: 31/12/2015

An option to extend for a further period of two years was utilised, therefore the new contract end date is 31/12/2017.

Annual expenditure to date:

Financial Years:

2013/2014	£269,100.00
2014/2015	£240,150.00
2015/2016	£173,174.22
Total	£682,424.22

eTenderWales Portal (BravoSolutions Ltd)

Contract Start: 30th June 2015

Contract End: 11th January 2019

No option for extension is available.

Annual expenditure to Date: Not available as the contract has not been let for more than a year.

- A copy of the contract for systems provided by BravoSolutions Limited (eTenderWales Portal)

The information you have requested is not held by the Welsh Government. However, I believe that **ATOS IT Service UK Limited** holds the information which you are seeking.

- A copy of the contract for systems provided by Millstream Associates Limited (Sell2Wales)

It is not standard practice for Welsh Government to hold written contracts with suppliers, rather the contract document is made up of the following:

- Tender Specification; Standard Contract Terms and Conditions for Services; Tender Response and Award letter.

I have attached the Tender specification, Standard Contract Terms and Conditions for Services and Award letter at Annex 1. However, I have concluded that the information contained within the Tender Response is exempt from disclosure under Section 43(2) of the Freedom of Information Act, information prejudicial to commercial interests and Section 29(1)b), the economy. My full reasoning for applying these exemptions is given at Annex 2.

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 Email: 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.

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 1 – Sell2Wales contract documentation



Main ITT
Document.doc



Annex 1a - S2W SRS
v1.0.doc



Annex 1b - Access
Control Matrix.xls



Annex1c -
LowValFormFields.xls



Annex 2 - SQuID
FuncReqs v1.pdf



Annex 3 - Conditions Final Millstream S2W
of Contract for ServFinal Award Letter.dc



Annex 2

Consideration For and Against Disclosure of Information

Decisions relating to non-disclosure have been taken with due consideration of the exemptions identified under Sections 43(2) and 29(1)(b) of the Freedom of Information Act 2000 (FOIA).

In considering whether to release or withhold the requested information I have to consider the effects of disclosure of the information to the World at large, rather than disclosure just to the requester who may, or may not, have a particular interest in accessing the information.

Both Sections are a qualified (public interest tested) exemptions. This means that in order to engage them, I must show that the public interest in withholding the information is greater than the public interest in releasing it.

Section 43(2) – Commercial interests

This section explains that information will be exempt if its disclosure would, or would be likely to, prejudice the commercial interest of any person.

Public Interest Test

It is recognised that there are compelling public interest arguments in favour of disclosure. There is the general presumption of openness that the FOIA and the Welsh Government's Code aspire to. Disclosure of the information would also be likely to enable a greater understanding of the Welsh Government's decision making process when awarding tenders to successful bidders.

Nevertheless the information provided by the successful bidder in the tender questionnaire would prejudice the commercial interests of that company if it were placed in the public domain. The information identifies, for example, how the company's systems and services are structured; financial information such as operational and daily rates for any work carried out; and details on processes for server and network hardware and operating systems. This detailed information would be of interest to a commercial competitor and would thus cause substantial harm to the successful bidder as it would no longer be able to competitively compete for future tenders.

Much information is publically available on the internet, by searching through the various public tender websites, about the exercise to purchase and develop the new Sell2Wales application. For example, there is a description of what is being proposed and the total final value of the contract. I do not believe, however, that releasing into the public domain the relative costs of particular elements of the successful bidder or information about its systems and services would be of interest to the wider public, but it would be of use to a commercial competitor in future tender situations. As such, I believe the public interest in withholding this information is greater than that in releasing it.

Section 29(1)(b) – The economy

This section explains that "information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the financial interests of any administration in the United Kingdom, as defined by section 28(2)". This includes the Welsh Government.

Public Interest Test

As outlined above, disclosure of the information would demonstrate the Welsh Government's recognition of openness and transparency with the general public, particularly in terms of efficiency, effectiveness and in holding spending Departments to account.

As a result of the harm to the successful bidder identified under Section 43(2)(1) above, I believe a number of potential future bidders would be reluctant to bid for fear of their commercially sensitive information being put into the public domain. I also believe future tendering exercises would be compromised resulting in the Welsh Government being less able to obtain the best value for the public pound from the contracts it lets. I believe that this would mean that the Welsh Government would have to pay out more for the same level of service or accept a reduced service for the amount it does pay. This clearly would result in substantial harm to the value for money the Welsh Government obtains and would substantially harm the amount of contracts the Welsh Government could offer, substantially reducing the amount of businesses which could win contracts with the effects on the wider economy of the reduced market.

The Welsh Government has a responsibility to ensure that it can offer as much work as possible to businesses. In doing so, it must be able to freely endeavour to obtain the best value for money from the contracts it lets. I believe that releasing sensitive information received from the successful bidder would inhibit future private sector companies bidding for work with the Welsh Government due to fear of sensitive information about that company being disclosed. Disclosure of such information would inhibit the Welsh Government's efforts to obtain the best value for money. It is my view, therefore, that the public interest is best served by withholding the information requested.