



10 May 2016

Dear ,

ATISN 10386 – Specification and contract tenders for ‘Cymraeg i blant/Cymraeg for kids’

Thank you for your request which I received on 14 April. You asked for a copy of the specification (brief) for the ‘Cymraeg i blant/Cymraeg for kids’ project and tender applications submitted for the delivery of this contract.

The table at Annex A lists all the documents captured by this request.

Some of the documents requested have been redacted as the information is exempt under sections 40 and 43 of the Freedom of Information Act. The reasons for applying these exemptions are set out in full at Annex B 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 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 A: List of documents captured by this request

Document 1	Specification for contract C12/2015/16 'Cymraeg i blant/Cymraeg for kids' – Welsh version
Document 2	Specification for contract C12/2015/16 'Cymraeg i blant/Cymraeg for kids' – English version
Document 3	Contract tender for C12/2015/16 by Iaith Cyf
Document 4	Contract tender for C12/2015/16 by Iaith Cyf – price schedule
Document 5	Contract tender for C12/2015/16 by Iaith Cyf – financial reports for year ending March 2014
Document 6	Contract tender for C12/2015/16 by Iaith Cyf – financial reports for year ending March 2015
Document 7	Contract tender for C12/2015/16 by Mudiad Meithrin
Document 8	Contract tender for C12/2015/16 by Mudiad Meithrin – annexes
Document 9	Contract tender for C12/2015/16 by Mudiad Meithrin – price schedule
Document 10	Contract tender for C12/2015/16 by Mudiad Meithrin – management accounts 2015-16
Document 11	Contract tender for C12/2015/16 by Mudiad Meithrin – directors report and accounts for years ending March 2014 and March 2013

Annex B: Sections 40 and 43(2) of the Freedom of Information Act

I have decided to withhold the following information:

Doc	Page(s)	Information being withheld	Section number/exemption name
3	14	Detailed interpretation of specification	43(2) Commercial interests
3	15-17	Details of proposed team members	40 Personal information
3	34	Detailed interpretation of specification	43(2) Commercial interests
3	35	Detailed costings	43(2) Commercial interests
3	36	Detailed interpretation of specification	43(2) Commercial interests
3	43-45	CVs of proposed team member	40 Personal information
4	1-2	Detailed costings	43(2) Commercial interests
7	43-44	Detailed interpretation of specification	43(2) Commercial interests
7	44-45	Detailed costings	43(2) Commercial interests
9	1-2	Detailed costings	43(2) Commercial interests

This Annex sets out the reasons for the engagement of sections 40 and 43(2) of the Freedom of Information Act.

Section 43(2) - Commercial Interests

The Welsh Government believes that certain aspects of commercial information contained within contract tenders should be exempt from disclosure. Releasing this information could cause harm to the commercial interests of the organisations in question.

Public interest test

In order to satisfy the public interest test in relation to an exemption, it is necessary to conclude that the public interest arguments in favour of withholding the information are sufficient to outweigh the public interest arguments in favour of release despite the prejudice that would or would be likely to arise.

Public interest arguments in favour of disclosure

Public sector organisations such as the Welsh Government who purchase goods or services need to show that the process for awarding a contract to a supplier is fair and transparent, and that the programme will provide value for money. Publication of both the contract specification and contract tenders could allow the public to see the relationship between the two and may enable the public understand to develop a greater understanding of the supplier's progress in delivering the aims of the contract.

Public interest arguments in favour of withholding

Contract tenders contain costings, salaries and other commercially sensitive information as part of a supplier's response to a tender. Releasing such information may give other organisations an unfair advantage when competing for contracts or grants, harming the suppliers bidding for this contract in competing fairly for other contracts or grants in future.

Balance of public interest test

On balance, I believe that the public interest lies in favour of withholding certain commercially sensitive information contained in some of the documents captured by the request for the reasons outlined above.

Section 40(2) - Personal information

Section 40(2) of the Freedom of Information Act requires third party personal data to be withheld in circumstances where the disclosure would breach any of the data protection principles set out in Schedule 1 of the Data Protection Act 1998 (DPA).

We consider that disclosure of personal data in the form of individual CV's and the name of staff against staffing structures, roles and responsibilities would breach the first data protection principle. The first data protection principle requires that processing of personal data must be fair and lawful and, in particular, that it should not be processed unless one of the conditions set out in Schedule 2 of the DPA is met.

In determining whether disclosure would contravene the first data protection principle, we have considered whether disclosure would amount to fair and lawful processing of those individuals' personal data. We consider that those individuals would be under a reasonable expectation that their information, submitted as part of a tender, would remain confidential and not disclosed to the public at large. As such, we do not consider that disclosure of the redacted personal data would be fair. Guidance from the Information Commissioner's Office (Personal Information (section 40 and regulation 13) v1.0) states: "The public authority must decide...whether it would be fair to disclose the personal data. If the public authority concludes that it would not be fair, then it must not disclose the information in response to the FOIA request".

In this instance, because the individuals would have had no expectation that their personal data would be released into the public domain, we believe that release of this information would be unfair and so breach the first data protection principle. For

that reason, the information is being withheld under section 40(2) of the Freedom of Information Act. This is an absolute exemption and not subject to the public interest tests.

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