

15 December 2017

Dear _____,

ATISN 11740

Thank you for your request, which I received on 21 November 2017, about the sole/ winning tender for the contract recently awarded by Welsh Government to provide Flying Start Book Bags for 2017/18

A copy of the information I have decided to release is enclosed.

We have decided that some of the information in scope of your request is exempt from disclosure under section) 43(2) of the Freedom of Information Act and is therefore withheld. The reasons for applying this exemption is set out in full at Annex [1] 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 1

We have decided to withhold the following information:

Information being withheld	Section number and exemption name
The pricing structure	Section 43 (2) Commercial Interests

This Annex sets out the reasons for the engagement of section 43 of the Freedom of Information Act and our subsequent consideration of the Public Interest Test.

We believe that the pricing structure included as part of the commercial response in the bid submitted by Peters Ltd. should be exempt from disclosure. The information is deemed to be sensitive for the following reasons:

- The release of individual figures provides confidential information about the company's relationship with its suppliers.
- The prices negotiated by Peters Ltd are intrinsic to its commercial success.
- The individual price per unit figures also contain elements of pricing for handling and carriage charges which could be deduced should the information be released into the public domain.

As such, we have concluded that the pricing schedule should not be released as part of this release of information as to do so would be commercially disadvantageous to Peters Ltd and could compromise their ability to compete fairly for business in the future.

Public Interest Test

In order to satisfy the public interest test in relation to the exemption(s), 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.

Public interest arguments in favour of disclosure

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. It is also recognised that the public have a right to know that the Welsh Government is investing public money wisely and that the awarding of public sector contracts is done fairly and within the rules.

Public interest arguments in favour of withholding

Some of the information requested is commercially sensitive and the disclosure of this information is likely to provide competitors with valuable information relating to business relationships and the prices negotiated by Peters Ltd. This would be disadvantageous to Peters Ltd and could compromise their ability to compete fairly for this contract and for similar contracts in the future.

It is vital that organisations are able to bid for contracts without running the risk of suffering a commercial detriment due to the release of sensitive information. The Book Bag contract is for the provision of a valued public service and it is vital that procurement processes at WG encourage open and fair competition for the work to secure the best possible provider.

Balance of public interest test

I am satisfied that the release of the redacted information would be commercially disadvantageous to Peter Ltd and, whilst there may be some interest amongst the company's competitors, there is likely to be little public interest beyond this.

It is vital that companies can bid for Welsh Government contracts confidently and, as such, I have concluded that the public interest in withholding the redacted information outweighs that in releasing it on this occasion.