**Date issued:** 19 April 2022

**Freedom of Information Request**

We are writing in response to your Freedom of Information request. Your request has been considered in accordance with the requirements of the Freedom of Information Act and our Data and Information Management Policy.

**You asked for the following information:**

*“Can we request how the successful contractor has demonstrated their competence and third party certification as set out within the tender package on Sell 2 Wales Ref - JAN385549 TFWRL Fire Risk Assessments Volume 5 - Scope of work?*

*We pay out a significant amount on our Certification through BAFE SP205 life safety fire risk assessment & BAFE SP101 Fire extinguisher schemes, this ensures when appointing a competent contractor there is a reasonable assurance of their work. The contractor awarded does not advertise that they carry out either fire risk assessment and do not appear on the BAFE register for either of the 2 services tendered.”*

**Having reviewed your questions, we are able to provide the following information:**

The Invitation to Tender (ITT) was carried out in accordance with the process set out in ‘Volume 1 – Instructions and requirements’. This document was issued as part of the tender package. The tender assessment was carried out by a cross-functional team who reviewed both commercial and operational aspects of the submissions. Each supplier was asked to respond to the questions in order to meet the criteria set out in the table below (fig.1) and scores were awarded accordingly.

**Fig.1**

|  |  |  |
| --- | --- | --- |
| **Ref** | **Criteria**  | **Weighting** |
| *D1* | *Methodology* | *45%* |
| *D2* | *Health, Safety and Wellbeing* | *25%* |
| *D3* | *Contractor’s Sustainability Policy / Procedure* | *20%* |
| *D4* | *Previous experience* | *10%* |
|  | ***Total*** | ***100%*** |

The Assessment team were satisfied that the selected supplier demonstrated their competence to the required level in order to award the contract. The content of the winning tender submission is exempt from disclosure under S43(2) (Prejudice to Commercial Interests) of the Freedom of Information Act (2000), which concerns disclosure of information which would be likely to adversely affect the competitive advantage of a supplier.

The use of this exemption is subject to an assessment of the public interest. In this instance, factors in favour of disclosure, such as the general public interest in transparency and openness are outweighed by the potential damage to the effective and fair operation of our bidding process; as disclosure of this information could give an unfair advantage to competitors of the appointed supplier by artificially manipulating the market. It should also be noted that disclosures made under the Freedom of Information Act must be considered as a disclosure to the public at large.

It is essential that TfW is careful to maintain the integrity of its procurement process in order to achieve the best value for taxpayer’s money. Disclosing this information would negatively, and significantly, impact that integrity and would likely result in a mistrust of our organisation and dissuade companies from engaging with our bidding process again. As such, disclosure would also be likely to harm TfW’s commercial interests, by prejudicing our ability to obtain best value from our procurement processes. Ultimately, this would lead to an increased cost to the public.

In this instance we consider that the public interest lies in obtaining the best value from the market, whilst respecting the implied and explicit obligations of confidentiality which are created through the procurement process. We therefore withhold the information contained with the winning bid which demonstrated the appointed supplier’s competence.

It is worth noting that BAFE Registration/Third Party Certification to a BAFE Scheme is currently not a legal requirement, and was not a mandatory requirement of this Tender.

We hope this information is of use to you.

Yours sincerely,

**Transport for Wales**

**Appeal Rights**

If you are unhappy with the way your request has been handled and wish to make a complaint or request a review of our decision, please write to the Head of Freedom of Information at either Transport for Wales, 3 Llys Cdwyn, Pontypridd, CF37 4TH or freedomofinformation@tfw.wales. Your request must be submitted within 40 working days of receipt of this letter. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision.

The Information Commissioner (ICO) can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or you can contact the ICO through the 'Make a Complaint' section of their website on this link: <https://ico.org.uk/make-a-complaint/>

The relevant section to select will be "Official or Public Information".