



Date issued: 14 August 2019

Fire risk assessment tender

Thank you for your email of 5 August 2020 asking for information under the Freedom of Information Act (FOIA) 2000. You asked for:

- names and registration numbers (Companies House numbers) for all the unsuccessful companies, excluding any commercial details of the tender outcome for the Fire Risk Assessments tender.

I can confirm that Transport for Wales holds the information relevant to your request. However, we are unable to provide it to you. This is because it is covered by exemption section 43(2) of the Freedom of Information Act. This exempts 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). Information relating to the bidders for Transport for Wales' contract for Fire Risk Assessments are considered exempt under section 43(2) of the Act.

Section 43(2) exempts information if its disclosure would be likely to prejudice the commercial interests of any person (including the public authority holding it). Section 43(2) is a qualified exemption and we are required to conduct a public interest test when applying any qualified exemption. This means that after it has been decided that the exemption is engaged, the public interest in releasing the information must be considered. If the public interest in disclosing the information outweighs the public interest in withholding it then the exemption does not apply and must be released. In the FOI Act there is a presumption that information should be released unless there are compelling reasons to withhold it.

Considerations in favour of the release of the information included Transport for Wales' commitment to openness and transparency in its commercial activities, to allow public scrutiny and to demonstrate that public funds are being used in an efficient and effective way. Furthermore, private sector companies engaging in commercial activities with the public sector must expect some information about those activities to be disclosed.

Considerations against disclosure included the recognition that disclosure may cause damage to an unsuccessful supplier's reputation, affecting the supplier's competitive position in their respective market and confidence that its customers, suppliers or investors may have in its commercial operations. Disclosure would be likely to deter potential bidders for future contracts from competing and sharing commercially sensitive information with us, which would negatively impact upon the quality and quantity of Transport for Wales' supplier base. Transport for Wales must retain commercial confidence of third-party bidders when they choose to engage in commercial activities with us. The release of this information may jeopardise this commercial confidence.



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In conclusion, Transport for Wales have determined that it is not in the public interest to prejudice the commercial interests of the unsuccessful suppliers. As such this information has been deemed exempt from disclosure under section 43(2) of the Act.

If you have any queries, please do not hesitate to contact Transport for Wales.

Yours sincerely

Transport for Wales