



Llywodraeth Cymru  
Welsh Government

26 January 2016

Dear ,

**ATISN 10091 – CONTRACT TO PRODUCE AND DELIVER SECTOR SPECIFIC TRAINING ON THE UN CONVENTION ON THE RIGHTS OF THE CHILD C047/2015/2016 (LOTS 1 & 2)**

Thank you for your request which I received on 12 January 2016 for information relating to the tender exercise for the contract to produce and deliver sector training on the UN Convention on the Rights of the Child. Specifically you requested the following two items:

1. A list of organisations, including addresses, who submitted a tender; and
2. Copies of any tender scoring or evaluation sheets including the final scoring and ranking outcome.

In response to the first item requested, I have provided a list of the names and addresses of the organisations, who submitted a tender for this contract, at Annex A to this letter.

In relation to the second item, I am content to disclose the final scores for the tender evaluation exercise and these have been provided at Annex B. However, the names of the organisations have been withheld and anonymised from the information.

It has been decided this information, along with the matrices outlining the individual and final evaluator comments from the evaluation and scoring exercise, are exempt from disclosure under section 43(2) of the Freedom of Information Act and is therefore withheld. The reasons for applying this exemption are set out in full at Annex C 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](mailto:FreedomOfInformationOfficer@wales.gsi.gov.uk)

Please remember to quote the ATISN reference number at the top of page 1 of this letter.

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 the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely,

## Annex A – Tender organisation names and addresses

<b>Suppliers</b>	<b>City</b>	<b>Address line 1</b>	<b>County</b>	<b>Postal Code</b>	<b>Country</b>
Capell Creative	Cardiff	5c Beulah Road, Rhiwbina	Cardiff	CF14 6LT	UK
Children In Wales	Cardiff	25 Windsor Place	Cardiff	CF103BZ	UK
Dynamix Ltd	Swansea	Unit 4D, Cwm Road	Swansea	SA12AY	UK
Eliesha Training Ltd	Newcastle upon Tyne	Newcastle House, Albany Court, Newcastle Business Park	Tyne and Wear	NE4 7YB	UK
Injan Cyf	Cardiff	25 Ovington Terrace, Llandaff	South Glamorgan	CF5 1GF	UK
Ptara ltd	Aberystwyth	1 Kings Crescent, Llangawsai	Ceredigion	SY231HQ	UK
University of Wales Trinity Saint David	Carmarthen	Carmarthen Campus	Carmarthenshire	SA313EP	UK
Youth Friendly	Conwy	33 Castle Street	Gwynedd	LL328AY	UK

## Annex B – Final Scoring and Ranking Outcomes

Scoring							
<b>Lot 1</b>	<b>Qualification Stage Final weighted Score (100%)</b>	<b>Award stage (70%)</b>			<b>Commercial Score (30%)</b>	<b>Total</b>	
		<b>Criteria 1</b>	<b>Criteria 2</b>	<b>Final weighted score</b>			
<b>Company G</b>	60	36	15	51	30	81	
<b>Company C</b>	60	36	15	51	23.28	74.28	
<b>Company A</b>	80	36	10	46	24.8	70.8	
<b>Lot 2</b>	<b>Qualification Stage Final weighted Score</b>	<b>Award stage (70%)</b>				<b>Commercial Score (30%)</b>	<b>Total</b>
		<b>Criteria 1</b>	<b>Criteria 2</b>	<b>Criteria 3</b>	<b>Final weighted score</b>		
<b>Company D</b>	60	27	12	6	45	29.39	74.39
<b>Company H</b>	60	27	6	8	41	30	71
<b>Company B</b>	60	18	6	2	26	29.5	55.5
<b>Company E</b>	40	Did not pass qualification Stage - tender not evaluated					
<b>Company F</b>	0	Did not pass qualification Stage - tender not evaluated					
<b>Company G</b>	40	Did not pass qualification Stage - tender not evaluated					

## Annex C – Application of exemption

I have decided to withhold the following information:

Information being withheld	Section number and exemption name
Copies of any evaluation matrices – Contract to produce and deliver sector specific training on the UN Convention on the Rights Of the Child C047/2015/2016 (Lots 1 & 2)	Section 43(2) – Commercial Interests

This Annex sets out the reasons for the engagement of section 43(2) of the Freedom of Information (Fol) Act and our subsequent consideration of the Public Interest Test. In considering whether the information should be released in response to a Fol request, we have to consider the effects of placing the information into the public arena for the World to access, as the effects of disclosure under Fol is to make the information freely available to the World at large not just to the requester. Whilst a requester may have a legitimate interest in being provided with the requested information, it is the effects of disclosure more widely we need to consider and it is the balance of wider public interest which informs any decision to withhold requested information.

### **Section 43(2) – Prejudicial to commercial interest.**

The intention behind this exemption is to prevent the disclosure of information which could cause serious harm to the commercial interest of any individual/organisation, namely, their ability to successfully participate in a commercial activity.

Section 43 (2) reads:

“Information is exempt if its disclosure under this Act would, or would be likely to, prejudice the commercial interest of any person (Including the public authority holding it)”.

When assessing the bids submitted for any tender, officials will highlight and comment on the strengths and weaknesses of each bid. Even where bids are strong overall, they will inevitably show slight differences with the response to one question being slightly stronger to some others within the bid. The assessors will highlight these differences when evaluating the bids. As such, the comments of the assessors, if taken out of context could easily be seen as suggesting a bid had significant weaknesses when in reality the weakness means it was just not as strong as another bid on a particular aspect. Putting such comments, particularly any perceived negative comments, into the public arena, for anyone to read, we believe, would be likely to have the effect of harming the business’s ability to bid fairly for future contracts either with ourselves or any other party going out to tender.

There is a very real risk any weaknesses highlighted by the assessors could be misinterpreted as an opinion on the bidding organisation, as opposed to the difference of a particular aspect of a bid between different bids. The result of such a misinterpretation is

it would be likely to damage the reputation of the bidding organisation, with the knock on effect on their ability to engage fairly in future commercial activities.

### **Public Interest Test**

In order to satisfy the public interest test in relation to the exemption, it is necessary to conclude 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 which would or would be likely to arise.

### **Public interest arguments in favour of disclosure**

In awarding contracts, there is an expectation public authorities achieve value for money and the procedures for selecting the winning bids is fair and open. Publication of the evaluations of individual bids could show how the decision to award a contract to a particular organisation was reached and the process was fair and objective. Publication of the evaluations could also allow the public to see how public authorities look to achieve value for money and whether they achieve this.

### **Public interest arguments in favour of withholding**

In order to achieve value for money, and get the best deal for the contracts it awards, public authorities need to ensure they receive a number of strong bids. If organisations believe that in submitting bids to the Welsh Government, even the slightest perceived weakness in their bids will be made public, opening them to reputational damage and thus harming their ability to compete fairly for other contracts, they will be less likely to submit bids.

In addition, it is not in the wider public interest for the Welsh Government to make public comments which can be misinterpreted as being negative about bidding organisations.

The Welsh Government, like most/all organisations which procure a significant number of goods, works and services, offer feedback to both successful and unsuccessful bidders, to talk through the strengths and weaknesses of their bids, in order to help those organisations improve, if required, in any future bids. Publishing the assessors' comments would undermine the process.

### **Balance of public interest test**

On balance, we believe the public interest lies in favour of withholding the information due to the potential economic damage which could occur outweighs any public interest in disclosure, and I have therefore decided to withhold the information.