

Freedom of Information requests

2011

Reference number: 11-006

Please consider this to be a Freedom of Information Request under the Freedom of Information Act 2000.

I write to you in relation to a contract you recently tendered, reference **2011/S 66-106678**
Planned preventative maintenance

Information Requested

We wish to receive a copy of the winning ITT submission plus any supporting evidence and scorecard for this tender. We also request a list of the company **names of the unsuccessful bidders**. We request that any personal data relating to individuals is removed before this information is sent. Based on previous requests, it is estimated that sourcing this information will take approximately 6.2 hours which is well within the required time limits specified within the FOI Act 2000.

Use of Information

This information will be used only for **RESEARCH** purposes in gaining furthering understanding of the maintenance services market. This request will not affect the commercial interests of National Museum Wales or any of the third party suppliers.

Objections

We do on occasion run into a submission that has specifically quoted an exemption under section 43.2 of the FOI Act 2000. Please do not send any information if the supplier has issued information, quoting this specific section of the Act to protect their bid. If an exemption has been used then we request a copy of the exemption made.

Executive Compass would like to thank you in advance for all your assistance with this request. I understand that a maximum of 20 working days is applied and look forward to your response.

Kind Regards

9 May 2010

Reference number: 11-006

Dear,

REQUEST FOR INFORMATION – *Information relating to the "winning ITT submission and supporting evidence". Reference 2011/S 66-106678 Planned preventative maintenance.*

Thank you for your request for information. As Head of Knowledge and Information Management for Amgueddfa Cymru - National Museum Wales, I will be responsible for responding to your request for information.

I refer to your email of 5th April 2011, in which you asked for the following information:

"We wish to receive copy of the winning ITT submission plus any supporting evidence and scorecard for this tender. We also request a list of the company names of the unsuccessful bidders."

In responding to your request for information, I have attached four documents to the email. The Tender is subdivided into three sections: Qualification, Technical and Commercial.

The documents include:

Document 1 – Qualification Response (including the attachments: Prompt Payment Certificate, Schedule of Specialist Contractors)

Document 2 – Technical Response (including Technical Attachments)

Document 3 – Commercial Response

Document 4 – Tender Evaluation Scores

You will note that names and photographs of individuals have only been provided where individuals have given their consent for their names to be released. Staff within Kier Facilities Services have not give their consented, therefore, disclosure of the information requested would be unlawful and is exempt from disclosure under section 40(2), of the Freedom of Information Act and section 7(4)(a) and the first and second principles, of the Data Protection Act. We have reached this conclusion by having regard to the Freedom of Information Act 2000 and the Data Protection Act 1998.

Freedom of Information Act 2000 (FOIA)

Section 40(2) FOIA – Personal data exempt from disclosure

The information withheld amounts to personal data and is exempt under section 40(2), FOIA, as disclosure, without the consent of the individuals to whom it relates, to a member of the public otherwise than under the FOIA would breach the first and second data protection principles. This exemption is absolute and is not subject to the public interest test.

Data Protection Act 1998 (DPA)

Redaction of Information – Engagement of section – Section 1(1) DPA – meaning of “personal data”

Information relating to the identification of Kier Facilities Services staff is personal data within the meaning of the DPA.

Part I of Schedule 1 DPA – first data protection principle

In my view, the disclosure of the personal data requested in your letter would be unfair within the meaning of the first data protection principle. Part II of Schedule 1 to the DPA sets out how the principle of fairness is to be interpreted. It states that, in deciding whether personal data is processed fairly, regard must be had to whether any person from whom it was obtained is deceived or misled as to the purpose or purposes for which they are to be processed.

The DPA also requires the data controller to ensure, so far as is practicable, that the individual knows the purposes for which his or her personal data is to be processed, and any further information which is necessary to enable the proposed processing to be fair.

Generally, once a data subject has been informed of the parameters of what will happen to his data, if a data controller carries out processing which is outside those parameters, that processing will be unfair.

With this in mind, a number of factors that will, in my view, have some bearing on whether disclosure can be regarded as fair. One of the most important, as advised above is that the response to an FOIA request is to the public at large, rather than to an individual, with a particular interest in information for his own personal reasons. Also, when asked, Kier Facilities Services has requested their staff names not be disclosed. As the required consent for release of personal data (section 7(4)(a) of DPA) has not been provided, this information cannot be provided.

With regards the organisations' names noted within the various case studies, this information has not been provided. This is because we are of the view that this information is exempt from disclosure under section 43(2) of the Act. Information is exempt information pursuant to section 43(2) if its disclosure would, or would be likely to prejudice the commercial interests of any person (including the public authority holding it). This decision has been taken following consideration of the public interest arguments for and against disclosure. The reasoning for our decision is as follows:

Freedom of Information Act 2000 (FOIA)

Redaction of Information – Engagement of Section 43(2): Commercial Interests

Under section 43(2) of the Act information is exempt information if its disclosure under the Act would, or would be likely to prejudice the commercial interests of any person including the public authority holding it.

We are applying this exemption to the information that has not been provided as disclosure would be likely to damage the National Museum Wales and those organisations listed within the case studies and their competitive position in the seeking competitive suppliers for future requirements, in particular, it would damage future negotiating position with parties that may be interested in providing tenders to the Museum.

Disclosure of this information would cause harm to the National Museum Wales as it would be likely to damage the efficiency by which the Museum makes use of its limited resources and undermine the Museum's ability to obtain future competitive tenders for services in such a way as to maximise the benefits for the public purse. I consider that the harm described above would be substantial.

Public Interest arguments in favour of disclosure under section 43(2).

There is a public interest in the National Museum Wales being as transparent and as accountable as possible in the way that it operates particularly with regards to the how it utilises its funding. It is arguable that there is a public interest in providing the external organisations names used in case studies provided by the tendering organisation will ensure that the National Museum Wales has considered the relevance and importance this information provides as part of the tender package.

Public interest arguments against disclosure under section 43(2)

The public interest argument against disclosure under this exemption is that the National Museum Wales, should, when requesting organisations to submit tenders, be afforded the opportunity to allow submitting tendering organisations to provide with confidence case study information without having to compromise its negotiating position. Disclosure of the organisational names associated with case studies would adversely impact on the success of the National Museum Wales to secure the best outcome for the public purse. The ability of the National Museum Wales to undertake tendering processes and negotiations concerning the acquisition of services has a direct bearing on the finances that it has available for reinvestment for the wider benefit of the public at large.

Having considered the public interests arguments for and against disclosure, I have, on balance concluded that the public interest is better served by withholding the information in question under the exemption that has been cited.

This information has been provided for your personal use, any copying, distribution or publication of this information in full or substantial part would be in breach of the Copyright, Design and Patent Act 1988. If you would like to copy or publish any part of the information provided, you must contact Mr. Robin Gwyn, Director of Communications for permission. Mr Gwyn's contact details are provided later in this letter.

Your request was considered according to the principles set out in the National Assembly's Code of Practice on Public Access to Information (third edition). The Code is published on the Internet at www.information.wales.gov.uk.

Amgueddfa Cymru – National Museum Wales
Parc Cathays, Caerdydd CF10 3NP/Cathays Park, Cardiff CF10 3NP
Ffôn/Tel (029) 2039 7951 Ffacs/Fax (029) 2057 3321
E-bost: post@amgueddfacymru.ac.uk/E-mail: post@museumwales.ac.uk

Llywydd/President Paul Loveluck CBE JP Is-Lywydd/Vice President Elisabeth Elias MA DL
Trysorydd/Treasurer G. J Peter Morgan MSc FCA Cyfarwyddwr Cyffredinol/Director General David Anderson
Rhif elusen / Charity registration number: 525774
Rhif TAW / VAT registration number: GB 783 4541 10

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cymru



If you believe that I have not applied the Code of Practice on Public Access to Information correctly or have not followed the relevant laws, please contact me to request a first-stage review. If, after that, you are still not satisfied you may request a formal review by the Museum. When dealing with any concerns, we will follow the principles of the National Museum of Wales' Code of Practice on Complaints, which is available on the Internet at www.nationalmuseumwales.org/en/45/ or by post to:

Mr. Robin Gwyn
Director of Communications
National Museum Wales
Cathays Park
Cardiff
CF10 3NP

You also have the right to complain to the Information Commissioner. Normally, however, you should pursue the matter through our internal procedure before you complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

Head of Knowledge & Information Management

Amgueddfa Cymru – National Museum Wales
Parc Cathays, Caerdydd CF10 3NP/Cathays Park, Cardiff CF10 3NP
Ffôn/Tel (029) 2039 7951 Ffacs/Fax (029) 2057 3321
E-bost: post@amgueddfacymru.ac.uk/E-mail: post@museumwales.ac.uk

Llywydd/President Paul Loveluck CBE JP Is-Lywydd/Vice President Elisabeth Elias MA DL
Trysorydd/Treasurer G. J Peter Morgan MSc FCA Cyfarwyddwr Cyffredinol/Director General David Anderson
Rhif elusen / Charity registration number: 525774
Rhif TAW / VAT registration number: GB 783 4541 10

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Project Co	project_19583
Project Title	Planned Maintenance Contract
Reference	
ITT Code	itt_32118
ITT Title	Planned Maintenance
ITT Status	Commercial evaluation

Id	supplier	Supplier	Section	Description
288088		Kier Faciliti	1. READ M	Acceptanc
288088		Kier Faciliti	Document:	1
288088		Kier Faciliti	Document:	2
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288088		Kier Faciliti	Confirmatic Name and	
288088		Kier Faciliti	Confirmatic Date	

Question	Question	Mandatory	Response
Have you read and understood the above instructions?	Yes/No Va	Yes	Yes
Have you read the attachment 'Section 1 - Letter of Invitation'?	Yes/No Va	Yes	Yes
Have you read the attachment 'Section 2 - Instructions to Tenderers'?	Yes/No Va	Yes	Yes
Have you read the attachment 'Section 3 - General Conditions'?	Yes/No Va	Yes	Yes
Please confirm you have read the attachment 'Section 4 - Specificatio	Yes/No Va	Yes	Yes
Please confirm you have read the attachment 'Section 4 - Specificatio	Yes/No Va	Yes	Yes
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Please confirm you have read the attachment 'Section 5 - Specificatio	Yes/No Va	Yes	Yes
Please confirm you have read the attachment 'Section 6 - Appendix A	Yes/No Va	Yes	Yes
Please confirm you have read the attachment 'Section 7 - Appendix B	Yes/No Va	Yes	Yes
Please confirm you have read the attachment 'Section 8 - Appendix C	Yes/No Va	Yes	Yes
Please confirm you have read the attachment 'Section 9 - Tender Reti	Yes/No Va	Yes	Yes
All tenderers must visit site and satisfy themselves as to the accuracy	Yes/No Va	Yes	Yes
We confirm that in accordance with the terms and conditions , contain	Yes/No Va	Yes	Yes
We have not told and will not divulge to anyone else, even approximat	Yes/No Va	Yes	Yes
We agree that the law of this contract shall be English law	Yes/No Va	Yes	Yes
In the event of this tender being accepted it would be necessary for us	Yes/No Va	Yes	Yes
We will, within seven working days of being so requested, furnish a sc	Yes/No Va	Yes	Yes
Please upload you completed Schedule of Proposed Sub-Contractors Attachmen	Yes	Yes	Schedule_of
Please upload you completed Prompt Payment Certificate	Attachmen	Yes	Prompt_Payi
Please enter your name and position held within your organisation	Text	Yes	
Enter the date this section is completed	Date (dd/m	Yes	06/01/2011

f_Proposed_Specialist_Sub-Contractors.doc
/ment_Certificate.doc

Prompt Payment Certificate
Fair Payment Charter
(Note: This Certificate will form part of the contract)

Having examined the provisions of the Conditions of Contract designed to ensure the prompt payment of sub-contractors we certify that:

1. Any sub-contract entered into by the Contractor shall provide for timely payment of the sub-contractor on terms complying with the requirements of the Authority/Employer as set out in the Conditions.
2. We understand that failure to comply with 1. above and/or failure to act in accordance with the provisions for prompt payment of sub-contractors/suppliers found within the Conditions of Contract will be taken into account when considering future tendering opportunities for our Company or any future which may be formed by us.

Dated 6th January 2011

Signature: 

In capacity of: Account Manager

Duly authorised to sign on tenders and certify acceptance of the provisions of the Prompt Payment Certificate for and on behalf of:

Contractor: Kier Facilities Services

Postal Address: Conway House, St Mellons Business Park, Cardiff, CF3 0EY

Telephone No: 02920 365016

Facsimile No: 02920 775424

Schedule of Proposed Specialist Sub-Contractors

The contractor is required to state elements of the work where he will employ a specialist sub-contractor and the name of the sub-contractor.

Element	Sub-contractors' name	Museum Site
1 Compressors	Dragon Air	National Museum Cardiff
2 Fire Extinguishers	Fire Rite	National Museum Cardiff
3 Radio PA Maintenance	Fire Rite	National Museum Cardiff
4 Teletronic Talk Units	Fire Rite	National Museum Cardiff
5 BMS	Bemac	National Museum Cardiff
6 Access Barrier	IDS	National Museum Cardiff
7 Lifts	Cardiff Lifts	National Museum Cardiff
8 Intruder Alarm	Chubb	National Museum Cardiff
9 PA Control Room	Chubb	National Museum Cardiff
10 Pump Maintenance	Deritend	National Museum Cardiff
11 Gas Detection	GDS Technologies	National Museum Cardiff
12 Lightning Protection	Osborne	National Museum Cardiff
13 Fume Cupboards	Roperhurst	National Museum Cardiff
14 Chillers	JCW	National Museum Cardiff
15 Access Gantry	OCS	National Museum Cardiff
16 Water Hygiene	Clearwater	National Museum Cardiff
17 Catering Equipment	Carfords	National Museum Cardiff
18 Deep Clean	OCS	National Museum Cardiff
19 PAT	PHS Compliance	National Museum Cardiff
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Schedule of Proposed Specialist Sub-Contractors

The contractor is required to state elements of the work where he will employ a specialist sub-contractor and the name of the sub-contractor.

Element	Sub-contractors' name	Museum Site
1 Fire Extinguishers	Fire Rite	National History Museum, St Fagan's
2 Fire Alarm	Fire Rite	National History Museum, St Fagan's
3 Fire Alarm	Protec	National History Museum, St Fagan's
4 Intruder Alarms	Chubb	National History Museum, St Fagan's
5 CCTV	Chubb	National History Museum, St Fagan's
6 Sump Pumps	Deritend	National History Museum, St Fagan's
7 BMS	Bemac	National History Museum, St Fagan's
8 Gates & Level Arm	IDS	National History Museum, St Fagan's
9 Lifts	Cardiff Lift	National History Museum, St Fagan's
10 Fume Cupboards	Roperhurst	National History Museum, St Fagan's
11 Gas Lighting	Warren Gas	National History Museum, St Fagan's
12 Catering Equipment	Carfords	National History Museum, St Fagan's
13 Deep Clean	OCS	National History Museum, St Fagan's
14 Water Hygiene	Clearwater	National History Museum, St Fagan's
15 PAT	PHS Compliance	National History Museum, St Fagan's

Schedule of Proposed Specialist Sub-Contractors

The contractor is required to state elements of the work where he will employ a specialist sub-contractor and the name of the sub-contractor.

Element	Sub-contractors' name	Museum Site
1 Fire Alarm	ADT	Roman Legionary Museum
2 Intruder Alarm	ADT	Roman Legionary Museum
3 Water Hygiene	Clearwater	Roman Legionary Museum
4 PAT	PHS Compliance	Roman Legionary Museum

Schedule of Proposed Specialist Sub-Contractors

The contractor is required to state elements of the work where he will employ a specialist sub-contractor and the name of the sub-contractor.

Element	Sub-contractors' name	Museum Site
1 Fire Alarm	Fire Rite	The Collection Centre
2 Inergen System	Fire Rite	The Collection Centre
3 VESDA	Fire Rite	The Collection Centre
4 Intruder Alarms	Chubb	The Collection Centre
5 BMS	Bemac	The Collection Centre
6 Roller Shutters	IDS	The Collection Centre
7 Lifts	Cardiff Lift	The Collection Centre
8 Lightning Protection	Osborne	The Collection Centre
9 Fume Cupboards	Roperhurst	The Collection Centre
10 Chiller	JCW	The Collection Centre
11 Water Hygiene	Clearwater	The Collection Centre
12 PAT	PHS Compliance	The Collection Centre
13 Compressor	Dragon Air	The Collection Centre

Schedule of Proposed Specialist Sub-Contractors

The contractor is required to state elements of the work where he will employ a specialist sub-contractor and the name of the sub-contractor.

Element	Sub-contractors' name	Museum Site
1 Fire Alarm	Fire Rite	National Slate Museum
2 Fire Extinguishers	Fire Rite	National Slate Museum
3 Intruder Alarms	Chubb	National Slate Museum
4 Lifts	Cardiff Lift	National Slate Museum
5 Sump Pumps	Deritend	National Slate Museum
6 Lightning Protection	Osborne	National Slate Museum
7 Catering Equipment	Carfords	National Slate Museum
8 Deep Clean	OCS	National Slate Museum
9 Water Hygiene	Clearwater	National Slate Museum
10 PAT	PHS Compliance	National Slate Museum

Schedule of Proposed Specialist Sub-Contractors

The contractor is required to state elements of the work where he will employ a specialist sub-contractor and the name of the sub-contractor.

Element	Sub-contractors' name	Museum Site
1 Fire Alarm	Fire Rite	Big Pit
2 Fire Extinguishers	Fire Rite	Big Pit
3 Intruder Alarms	Chubb	Big Pit
4 CCTV	Chubb	Big Pit
5 Sump Pumps	Deritend	Big Pit
6 Lightning Protection	Osborne	Big Pit
7 Catering Equipment	Carfords	Big Pit
8 Deep Clean	OCS	Big Pit
9 Water Hygiene	Clearwater	Big Pit
10 PAT	PHS Compliance	Big Pit
11 BMS	Bemac	Big Pit
12 Lifts	Cardiff Lift	Big Pit

Schedule of Proposed Specialist Sub-Contractors

The contractor is required to state elements of the work where he will employ a specialist sub-contractor and the name of the sub-contractor.

Element	Sub-contractors' name	Museum Site
1 Fire Alarm	Fire Rite	National Wool Museum
2 Fire Extinguishers	Fire Rite	National Wool Museum
3 Intruder Alarms	Chubb	National Wool Museum
4 BMS	Bemac	National Wool Museum
5 Sump Pumps	Deritend	National Wool Museum
6 Lightning Protection	Osborne	National Wool Museum
7 Catering Equipment	Carfords	National Wool Museum
8 Deep Clean	OCS	National Wool Museum
9 Water Hygiene	Clearwater	National Wool Museum
10 PAT	PHS Compliance	National Wool Museum

Schedule of Proposed Specialist Sub-Contractors

The contractor is required to state elements of the work where he will employ a specialist sub-contractor and the name of the sub-contractor.

Element	Sub-contractors' name	Museum Site
1 Fire Alarm	ADT	Turner House Gallery
2 Intruder Alarm	ADT	Turner House Gallery
3 Fire Extinguishers	Fire Rite	Turner House Gallery
4 Water Hygiene	Clearwater	Turner House Gallery

Schedule of Proposed Specialist Sub-Contractors

The contractor is required to state elements of the work where he will employ a specialist sub-contractor and the name of the sub-contractor.

Element	Sub-contractors' name	Museum Site
1 Fire Alarm	Fire Rite	National Waterfront Museum
2 Fire Extinguishers	Fire Rite	National Waterfront Museum
3 VESDA	Fire Rite	National Waterfront Museum
4 Fire Suppression	Fire Rite	National Waterfront Museum
5 PA/VA	Fire Rite	National Waterfront Museum
6 Induction Loop	Fire Rite	National Waterfront Museum
7 Fire Vent	Fire Rite	National Waterfront Museum
8 BMS	Bemac	National Waterfront Museum
9 Lifts	Cardiff Lift	National Waterfront Museum
10 Intruder Alarm	Chubb	National Waterfront Museum
11 Access Control	Chubb	National Waterfront Museum
12 Lightning Protection	Osborne	National Waterfront Museum
13 Catering Equipment	Carfords	National Waterfront Museum
14 Deep Clean	OCS	National Waterfront Museum
15 Water Hygiene	Clearwater	National Waterfront Museum
16 Chillers	JCW	National Waterfront Museum
17 Plate Heat Exchangers	Heat Exchanger Services	National Waterfront Museum
18 Power Factor Correction	ABB Limited	National Waterfront Museum

Project Co	project_19583
Project Tit	Planned Maintenance Contract
Reference	
ITT Code	itt_32118
ITT Title	Planned Maintenance
ITT Status	Commercial evaluation

Id	supplier	Supplier	Section	Descriptio	Question	Question	Mandator	Response	Auto Scor
288088		Kier Faciliti	1. Manage	1.1	Identify the Attachmen	Yes		Question 1	0
288088		Kier Faciliti	1. Manage	1.2	Details of a Attachmen	Yes		Question 1	0
288088		Kier Faciliti	1. Manage	1.3	Detail prop Attachmen	Yes		Question 1	0
288088		Kier Faciliti	1. Manage	1.4	Details of r Attachmen	Yes		Question 1	0
288088		Kier Faciliti	2. Geograp	2.1	Ability to cc Attachmen	Yes		Question 2	0
288088		Kier Faciliti	3. QA Proc	3.1	Provide / lc Attachmen	Yes		Question 2	0
288088		Kier Faciliti	4. Mobilisa	3.1	Details ma Attachmen	Yes		Question 2	0

Actual scc	Maximum score
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