

Freedom of Information requests

2012

Reference number: 12-015

Thank you for your email.

I would very much like to ask your procurement officer for all information regarding the business tenders at St Fagans. Would you please give me his contact details so I may contact him directly under the terms of the FOI "freedom of information" Act.

Regards

Suspended 29 Oct. 2012
seeking clarification
from the requester.

3 January 2013

Reference number: 12-015

Dear,

REQUEST FOR INFORMATION – *Information relating to the tendering process for the Pottery, Photographic Studio, Gwalia Stores and the Bakery at St Fagans for the past five years.*

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

I refer to your email of 30 November 2012, in which you asked for the following information:

- 1) *How each of the individual business tenders were advertised, where and for how long?*
- 2) *How many individual tender applications were made for each business?*
- 3) *Information within each tender.*
- 4) *The time frame of each tender process.*
- 5) *The names and addresses of all tenders*

In responding to your request for information, I will be referring to each business separately.

Gwalia Store

Amgueddfa Cymru – National Museum Wales does not hold the information that you have requested as the business has not been tendered within the time period, therefore I am unable to provide the information as requested as it does not exist. Under Section 1.1 of the Act, the information you have requested is not held therefore, I must apply Section 17 of FOIA which states that where public authorities receive requests for information that they do not hold, they must issue a Refusal Notice stating they do not hold the requested information. I am therefore issuing you a Refusal Notice for information relating to tendering processes for Gwalia Stores. I am applying this Refusal Notice to questions 1 to 5 for the Gwalia Store.

The Photographic Studio

- 1) *How each of the individual business tender was advertised, where and for how long?*

There was no advertisement; the Museum contacted 10 Studios to enquire if they would be interested in submitting an expression of interest.

Even though the Museum did tender for this business, it was not obliged to carry out a formal tendering process as the value of the tender was under £ 15,000.

- 2) *How many individual tender applications were made for each business?*

Two tenders were received.

- 3) *Information within each tender.*

Information recorded on the Formal Tender Document is as follows:

Moss-Vernon – 10% increase on Current Rent

Perfect Moments – Subject to discussion

Your request for this information has been considered. Unfortunately, Amgueddfa Cymru is unable to provide the detailed information of the tenders as you have requested.

It is considered that the public interest in withholding the information outweighs the public interest in disclosing it. Therefore, in accordance with the Freedom of Information Act 2000, this letter acts as a Refusal Notice.

The exemption applied is Section 43(2) Commercial interests.

This exemption applies because the disclosure of the requested information would be likely to prejudice the commercial interests of the contract holder, Amgueddfa Cymru and all those who have supplied detailed tenders in any future negotiations.

We do not provide financial information on current tenders as we consider this information is commercially sensitive. The contract was only awarded in **November 2012** which makes this information very current thus very commercially sensitive. Disclosure of this current information is likely to prejudice all parties in future negotiations. Amgueddfa Cymru does not disclose current information which would likely prejudice the Museum's or other company's future negotiation opportunities. Such information is not released and exemption S.43(2) is applied.

Moreover, releasing such information would fetter the Museum's ability to obtain a competitive price on retendering i.e. disclosure would harm the Museum's ability to achieve best value when the contract is next retendered.

We acknowledge that there is a public interest in disclosure to support openness and transparency, especially relating to the spending of public money, but there are opposite and weightier interests in non-disclosure due to the importance of ensuring a level commercial playing field and achieving best value in negotiations for public sector contracts.

- 4) *The time frame of each tender process.*

Expressions of interest closing date – by 5 pm on the 17th September 2012

Date for tenders – 25th September 2012

Closing date for tenders – by 5 pm on the 5th October 2012

Tenders opened – 10th October 2012

- 5) *The names and addresses of all tenders.*

*Moss Vernon – Jonathan Moss-Vernon
Perfect Moments – John Spencer*

I have not provided the personal addresses as I believe this to be personal information as the information has not been noted as being a business address. I have applied section 40(2) to this information and therefore, the personal address for the two individuals has been withheld.

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

The information requested 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 data protection principles. This exemption is absolute and is not subject to the public interest test. Therefore, the information requested is exempt under FOIA section 40(2) and will now be reviewed under the Data Protection Act 1998 (DPA).

Data Protection Act 1998 (DPA)

Section 1(1) DPA – meaning of “personal data”

Information relating to personal addresses of those tendering which is personal data within the meaning of the DPA.

Part I of Schedule 1 DPA – first data protection principle

In our view, the disclosure of personal data to a third party 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 information you have requested contains personal information and releasing this information would be deemed unfair on the first data protection principle.

The Pottery

- 1) *How each of the individual business tender was advertised, where and for how long?*

An Expression of Interest Notice was placed on the Museum's website on the 30th June 2011 until the 22nd July 2011 and in the Western Mail on the 7th July 2011.

This is the notice which appeared in the Western Mail:

Commercial Opportunities at St. Fagans: National History Museum

St. Fagans: National History Museum is situated on the outskirts of Cardiff is part of Amgueddfa Cymru - National Museum Wales. It is one of Europe's biggest and most exciting open air museums and is the most visited heritage attraction in Wales drawing some 650,000 visitors a year.

The Museum is seeking expressions of interest for the running of the following operations:

The Bakery

The Pottery

Horse and Carriage rides

More detailed information is available from the Museum's website:

www.museumwales.ac.uk/commercial

Or by telephoning 02920 573 500.

The closing date for application is Friday 22nd July 2011

Even though the Museum did tender for this business, it was not obliged to carry out a formal tendering process as the value of the tender was under £ 15,000.

- 2) *How many individual tender applications were made for each business?*

Two tenders were received.

- 3) *Information within each tender.*

Information recorded on the Formal Tender Document is as follows:

Ave a Go Ceramics – price quoted £3,600

St Fagans Pottery Ltd. – price quoted £3,700

Unfortunately, Amgueddfa Cymru is unable to provide the detailed information you have requested. I have applied the same exemption (Section 43(2) Commercial interests) as noted under question 3 relating to the Photographic Studio; therefore, I am issuing a Refusal Notice as this information is exempt from disclosure.

- 4) *The time frame of each tender process.*

Expressions of Interest

Started on the 7th July 2011

Closing date was the 22nd July 2011

Tenders process

Started on the 29^h July 2011

Closing date was the 12th August 2011

Tenders opened on the 17th August 2011.

- 5) *The names and addresses of all tenders*

Ave a Go Ceramics – Mather Jones

St Fagans Pottery Ltd. – Gareth LLoyd

I have applied the same exemption (s 40(2)) as noted under question 5 of the Photographic Studio; therefore, I am issuing a Refusal Notice as this information is exempt from

disclosure.

The Bakery

- 1) *How each of the individual business tender was advertised, where and for how long?*

An Expression of Interest Notice was placed on the Museum's website on the 30th June 2011 until the 22nd July 2011 and in the Western Mail on the 7th July 2011.

This is the notice which appeared in the Western Mail:

Commercial Opportunities at St. Fagans: National History Museum

St. Fagans: National History Museum is situated on the outskirts of Cardiff is part of Amgueddfa Cymru - National Museum Wales. It is one of Europe's biggest and most exciting open air museums and is the most visited heritage attraction in Wales drawing some 650,000 visitors a year.

The Museum is seeking expressions of interest for the running of the following operations:

The Bakery

The Pottery

Horse and Carriage rides

More detailed information is available from the Museum's website:

www.museumwales.ac.uk/commercial

Or by telephoning 02920 573 500.

The closing date for application is Friday 22nd July 2011

Even though the Museum did tender for this business, it was not obliged to carry out a formal tendering process as the value of the tender was under £ 15,000.

- 2) *How many individual tender applications were made for each business?*

No tenders were received as the tendering process was withdrawn.

Amgueddfa Cymru – National Museum Wales does not hold the information that you have requested as the process for tendering was withdrawn, therefore I am unable to provide the information as requested as it does not exist. Under Section 1.1 of the Act, the information you have requested is not held therefore, I must apply Section 17 of FOIA states that where public authorities receive requests for information that they do not hold, they must issue a Refusal Notice stating they do not hold the requested information. I am therefore issuing you a Refusal Notice for information relating to tendering processes for the Bakery.

- 3) *Information within each tender.*

I have applied the same exemption (Section 1.1 – Information not held as noted under question 2 within the Bakery section and therefore, I am issuing you with a refusal Notice.

- 4) *The time frame of each tender process.*

I have applied the same exemption (Section 1.1 – Information not held as noted under question 2 within the Bakery section and therefore, I am issuing you with a refusal Notice.

- 5) *The names and addresses of all tenders*

I have applied the same exemption (Section 1.1 – Information not held as noted under question 2 within the Bakery section and therefore, I am issuing you with a refusal Notice.

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.

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 Amgueddfa Cymru. When dealing with any concerns, we will follow the principles of the National Museum of Wales's Code of Practice on Complaints, which is available on our website at www.museumwales.ac.uk/en/45/ or by post from:

Mr John Williams-Davies
Director of Collections and Research
Amgueddfa Cymru – 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