

14 September 2026

Dear

Request for Information - ATISN 27292

Further to your request for information of 31 July where you asked for information about the A55 DBFO scheme namely the contract between the Welsh Government or Welsh Ministers and the plans showing the asset extent and boundaries.

Our response

Firstly, please accept my apologies for the delaying in providing the information requested.

The Welsh Government holds the information you have requested.

The contract was signed in 1998 between the then Secretary of State for Wales and UK Highways A55 Ltd. There is a very clear confidentiality clause in the contract namely:

49. Confidentiality

49.1 Confidential Information

*Each Party agrees, for itself and its respective directors, officers, employees, servants and agents, to keep confidential and to not disclose to any person (save as hereinafter provided) any of the terms of this Agreement or any confidential or proprietary information (including documents, the financial model, computer records, specifications, formulae, evaluations, methods, processes, technical descriptions, reports, any police reports STATS 19 (or any replacement or substitute for such report) and other data, records, drawings and information whether or not included in the Design Data or Traffic Data) provided to or arising or required by it pursuant to the terms or performance of this Agreement (including any such documents or information supplied in the course of proceedings under the Disputes Resolution Procedure) (together with the “**Confidential Information**”).*

The potential release of this Contract required third party consultation and despite the above clause a pragmatic view has been taken to your request and the contract and accompanying schedules, bar 4 of them, are attached.

You also request the plans and these are also attached.

I am withholding the following Schedules under sec 42(3) of the Freedom of Information Act.

Schedule 1 – Financial matters

Schedule 9 – Payments

Schedule 14 – Records and Reports
Schedule 18 – Penalty Points

Payments from the Welsh Government for the DBFO are contained in the Welsh Government accounts which are available online on the Welsh Government website.

The Freedom of Information Act 2000 (FOIA) provides a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations. We have decided to withhold the information and have set out in **Annex A** the relevant exemptions under the FOIA we believe are applicable and why we believe the information should not be disclosed. This includes our consideration of the public interest test.

Next Steps

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: Freedom.ofinformation@gov.wales.

Please remember to quote the ATISN reference number above. You also have the right to complain to the Information Commissioner. The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 0303 123 1113
Website: www.ico.org.uk

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

Annex A

The FOIA provides a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations.

We have decided to withhold information in line with the below exemption under the FOIA:

- Section 43(2) – Commercial interests

This annex sets out the reason(s) for the engagement of this Section of the FOIA and our subsequent consideration of the Public Interest test.

Section 43(2) – commercial interests

Section 43(2) covers any information that if disclosed that would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

The information requested contains financial and commercial information which, should it be disclosed, would be likely to prejudice A55 UK Highways Ltd and companies engaged in commercial discussions with them. To reveal the information would be likely to prejudice their commercial interests should the information associated with this matter be disclosed. The information would reveal commercially sensitive information not otherwise publicly available and which, if disclosed would be likely to prejudice the company's future contracts.

Disclosing the information would give any competitors a distinct commercial advantage and stepping stone which would be likely to put the company's own business at risk and therefore prejudice their ability to engage in future commercial activities. We do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest.

Public interest arguments in favour of release

We understand that release would provide transparency and accountability in the use of public funds. Disclosure enables public scrutiny of procurement processes to ensure value for money. Releasing the contract may support public confidence in decision-making and contract management.

Public interest arguments in favour of withholding

We take the view that Section 43(2) is intended to ensure that information is not disclosed that would be likely to prejudice the commercial interests of any person (including the public authority holding it). To freely disclose the information would give any competitors a distinct commercial advantage and stepping stone which would be likely to put their business at risk and therefore prejudice the company's

ability to engage in future commercial activities. A55 UK Highways Ltd does not have access to similar information on its competitors as they do not publish it, so would be at a significant disadvantage. We believe the resultant harm should the information be released, could be injurious to A55 UK Highways Ltd.

The information on payments, penalties, financial matters and the records and reports could prejudice the firm's commercial interests. I do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest. I further do not believe there is a public interest in prejudicing the commercial interests of the company by the release of this information.

I am aware that, as a general rule, the sensitivity of some information may be likely to reduce over time; therefore, the age of the information, or timing of the request, may be relevant in determining whether to apply an exemption, or where the public interest may lie. In this case, however, the information captured is still current information. I believe therefore that the balance of the public interest falls in favour of withholding the information.

Conclusion

I believe that it is within the wider public and commercial interest of A55 UK Highways Ltd to withhold the information related to this request in order to prevent putting A55 UK Highways Ltd at an unfair competitive disadvantage.

I would draw your attention to the Confidentiality Clause in the contract which could have been used to withhold the whole contract under commercial interests but a pragmatic view has been taken to only withhold the 4 schedules which are still extant, in use and which link to finances and reports which impinge on UK A55 Highways Ltd ongoing commercial interests.

The Welsh Government endeavours to ensure it is as transparent as possible, in particular through the media, publication of documents, Ministerial Written Statements and public statements in the Senedd. We take the view that, on balance, this public interest has been satisfied and the information requested has been withheld under section 43(2) of the Act for the reasons set out above.