RELEASE ANNEX B
REASONS EXEMPTIONS APPLY

While our aim is to provide information whenever possible, in this instance we are unable to provide some of the information you have requested because exemptions under the following sections of FOISA applies to that information: section 38(1)(b) personal data of a third party; section 25(1) information otherwise accessible; section 30(b)(i) free and frank provision of advice; section 30(c) the effective conduct of public affairs; and section 36(1) claim to confidentiality of communications.

Section 38(1)(b) personal data of a third party applies to some of the information requested but is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.

Section 25(1) information otherwise accessible applies to some of the information requested because some of the information you have requested is available on the Scottish Government website under a page headed *Scottish Connections Fund: successful applicants* https://www.gov.scot/publications/scottish-connections-fund-successful-applicants/.
Under section 25(1), we do not have to give you information which is already reasonably accessible to you. If, however, you do not have internet access to obtain this information from the website(s) listed, then please contact me again and I will send you a paper copy.

Section 30(b)(i) – free and frank provision of advice – **applies to some of the information requested**, notably part of paragraph 12, all of paragraph 13 and all of paragraph 16 of Release Annex A. This exemption applies because disclosure would, or would be likely to, inhibit substantially the free and frank provision of advice. This exemption recognises the need for officials to have a private space within which to provide free and frank advice to Ministers before the Scottish Government reaches a settled public view. Disclosing the content of free and frank advice on funding decisions will substantially inhibit the provision of such advice in the future, particularly because these decisions relate to wider budgetary considerations within the organisation which remain sensitive and ongoing.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing a private space within which officials can provide full and frank advice to Ministers as part of the process of exploring and refining the Government's position and decisions on allocation of public funds, until the Government as a whole can adopt a decision that is sound and considered most effective. This private thinking space is essential to enable all options to be properly considered, based on the best available advice, so that good decisions can be taken. Premature disclosure is likely to undermine the full and frank discussion of

issues between Ministers and officials, which in turn will undermine the quality of the decision making process, which would not be in the public interest.

Section 30(c) – substantial prejudice to the effective conduct of public affairs – applies to some the information requested.
Within Release Annex A, this exemption also applies to some information containing the explicit detail of internal consideration and adjudication of different applicant projects to the Scottish Connections Fund. It is essential for officials to be able to consider candidly and fully the merits of applications for Grant Funding however the process applicants entered into and agreed to did not include proposed publication of final scores or feedback. Disclosing the entire outputs of that process without the express consent of a wide range of stakeholders involved is likely to undermine their trust in the Scottish Government and will substantially inhibit communications on this type of issue in the future.
These stakeholders will be reluctant to engage in such processes again in future if they believe an assessment of their proposals is likely to be made public, particularly when related to competitive funding applications which inevitably lead to some parties' disappointment. This would significantly harm the Government's ability to carry out many aspects of its work, and could adversely affect its ability to gather all of the evidence it needs to make fully informed decisions in future.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However there is a greater public interest in allowing Ministers and officials a private space within which to consider and assess grant funding applications appropriately and for stakeholders who have submitted such applications to not have assessments of them published without their prior agreement.

Section 36(1) – claim to confidentiality of communications – applies to some of the information requested, notably paragraph 26 of Release Annex A, because it is legal advice and disclosure would breach legal professional privilege.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is some public interest in release as part of open and transparent government, and to inform public debate. However, this is outweighed by the strong public interest in maintaining the right to confidentiality of communications between legal advisers and clients, to ensure that Ministers and officials are able to receive legal advice in confidence, like any other public or private organisation.