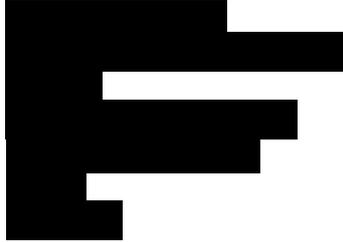


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19 May 2014

Dear 

FREEDOM OF INFORMATION ACT 2000 – INFORMATION REQUEST
(Our file: FOI_14-088)

We have now considered your request of 23 April 2014 for information relating to the provision of manned security services at UEA.

Our response can be found, together with your original request, on page 5 of this letter. We trust that this will be to your satisfaction.

It is, however, not possible to satisfy all elements of your request, and in accordance with section 17 of the Freedom of Information Act 2000 this letter acts as a partial Refusal Notice. The exemptions are indicated within the attached document and the reasons for exemption are as stated below:

Exemption	Reason
s.40(2), Personal information	Disclosure of some of the requested information would contravene one of the data protection principles
s.43(2), Commercial interests	Disclosure of information will be likely to prejudice the commercial interests of a person as defined by the Act

Explanation of exemptions

In regards the application of section 40(2), we believe that there are data within several of the documents requested that meet the definition of 'personal information' as defined by section 1(1) of the UK Data Protection Act 1998 (hereafter 'DPA')

Specifically, we believe that the names, roles, stated abilities and knowledge of an individual named in the winning bid for manned security services for the UEA Library is personal information.

The University does not impose any restriction on onward disclosure of information released under the Act, unless that information constitutes a 'dataset'¹. In considering a disclosure under FOI, the University must take into consideration that any information released will be placed in the public domain, through our own disclosure log or by other means. As this information was submitted as part of a private tender, there would be no expectation at any time by these individuals that this information would be released into the public domain.

We do not have consent from the individuals concerned for the release of this information nor do we believe that there are any Schedule 2 conditions present that would allow release in the absence of such consent. We do not believe that there is any public interest in the level of detail relating to these individuals that would justify the release of this information. We believe that the release of this personal information would be prejudicial to the individual data subjects' rights, freedoms and legitimate interests.

In regards the application of section 43(2), it is our belief that the release of specific details within some of the tender documents would, or would be likely to, prejudice the commercial interests of the firm providing the tender. We have been in contact with this firm and our application of s.43(2) is based on evidence received from this firm.

The Information Commissioner's Office (ICO) has established a multi-criteria test for assessing whether a section 43(2) exemption applies.² The first criterion is whether the information relates to, or could impact on a commercial activity. The submission of information in support of a bid for a lucrative contract for the provision of manned security services is clearly a commercial activity.

The second criterion is whether the commercial activity is conducted in a competitive environment. There can be little doubt that the provision of manned security services is carried out in a competitive environment. There are a significant number of firms providing such services and the sums of money involved are significant. The fact that four firms submitted bids is clear evidence of the competitive nature of the security service market.

The next criterion is whether the information is commercially sensitive. Information provided by firms bidding for a contract is likely to have differing levels of sensitivity. However, details such as contract pricing structure, profit levels, staff pay and contributions, operating overhead figures as well as costs of equipment and services from suppliers that are necessary for delivery of a contract are very much commercially sensitive. Additionally, information submitted within the tender document explaining exactly how the firm would deliver the contract such as strategies, processes and policies with regards to staff retention, training and development and management is pivotal to how a firm would distinguish itself from competitors in pursuit of a contract of this type.

Additionally, the position of a firm itself within the marketplace can determine the commercial sensitivity of the information it submits in a tender. The consultants and contractors who worked together on tenders would undoubtedly wish to emphasise elements of their particular bid that would be different, or superior to other bids. This type of information is central to the commercial success and viability of these firms.

The degree of commercial sensitivity will vary from firm to firm. It is dependent on the position of that firm in relation to its competitors, the nature and extent of the information supplied with the tender and their own internal assessment of the risk or prejudice to their interests resulting from the release of the tender information.

¹<http://www.legislation.gov.uk/ukpga/2000/36/section/11>

²http://www.ico.gov.uk/for_organisations/guidance_index/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/AWARENESS_GUIDANCE_5_V3_07_03_08.ashx

The next criterion goes to the prejudice itself: would there be damage to any party's reputation, business confidence or ability to compete? Under FOI, release to one requester can be considered as release to the world. We believe that release of the requested information would, in effect, provide all competitors with information that many firms would consider commercially sensitive.

We did contact the firm that submitted the winning bid and it clearly expressed concern at the release of certain requested information to competitors. They were of the opinion that competing firms would be interested in some of the requested information and would use it to their advantage, to the disadvantage of their competitors. This is the very reason that the tender process is private in nature.

Contractors therefore are naturally very cautious of giving any small amount of information in fear that other contractors may use it to their advantage and win future work.

We have no doubt that in this highly competitive environment, financial, commercial and technical information within this tender would be highly prized information by competitor organisations. The manner in which a firm delivers such a service, the level of commercial and financial risk each firm is willing to assume, and bids for work are all factors that we believe a competitor would wish to view.

Public interest test

A public interest test³ must be applied to the exemption for prejudice to commercial interests. There is no doubt that there is a legitimate public interest in knowing the amount and way in which substantial public funds are spent in this respect, to further the transparency and accountability of public authority activities.

We would counter that there is also a public interest in protecting the ability of companies to compete on a level playing field and to ensure that there is fair competition for prospective bidders. To disclose this information would prejudice not only the competitive and commercial position of submitting firms, but would also hamper the ability of any public institution to obtain the best value from the bidding process.

It is difficult to see how this could be in the public interest. Given the amount of funds involved and the significance of the project itself (and succeeding projects), any distortion of the process would not be in the public interest.

You have the right of appeal against this decision. If you wish to appeal, please set out in writing your grounds of appeal and send to me at the address noted in the heading to this letter.

You must appeal our decision within 60 calendar days of the date of this letter. Any appeal received after that date will not be considered nor acknowledged. This policy has been reviewed and approved by the Information Commissioner's Office.

You also have a subsequent right of appeal to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow, Cheshire
SK9 5AF
Telephone: 0303 123 1113
www.ico.org.uk

Please quote our reference given at the head of this letter in all correspondence.

³http://www.ico.org.uk/for_organisations/guidance_index/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/the_public_interest_test.ashx

Yours sincerely

David Palmer
Information Policy and Compliance Manager
University of East Anglia

Response to Freedom of Information Act 2000 request (FOI_14-088)

I am writing to make an open government request for all the information to which I am entitled under the Freedom of Information Act 2000.

Please send me:

1. *Copy of the winning bid for manned security services running currently.*

The requested information is in within the attached document entitled Appendix A_Question 1 response.pdf

[Information exempted pursuant to s.40(2), Freedom of Information Act]

Some personal data has been exempted for the reasons noted in the above letter.

[Information exempted pursuant to s.43(2), Freedom of Information Act]

Some information has been exempted on the grounds that it would, or would be likely to, prejudice the commercial interests of a party for the reasons noted in the above letter.

2. *Evaluation notes of the same manned security services tender method statements*

The requested information is in within the attached document entitled Appendix B_Question 2 response.pdf