

February 13th 2018

BY EMAIL

Tel: 028 9536 3863
Email: FOI.BSO@hscni.net

Our Ref: FOI 825

Dear [REDACTED]

Your request for information was received on January 17th 2018 and was dealt with under the terms of the Freedom of Information Act 2000. Please be advised that the Business Services Organisation (BSO) has now completed its search for the information you requested with regards to Tender No: 453942 - Non Emergency Ambulance Patient Transport Services.

I would like to refer you to the following link, which provides information that is publically available as the result of an earlier FOI request:
https://www.whatdotheyknow.com/request/tender_number_453942_non_emergen#incoming-996569

I would further like to advise that the high level pricing is also available in the public domain being published in Supplement to the Official Journal of the EU. The link to the Contract Award Notice is:
<http://ted.europa.eu/TED/notice/udl?uri=TED:NOTICE:161311-2017:TEXT:EN:HTML&src=0>

With regards your request, and applicable to the information available via the first link provided, we have undertaken third party consultation with all tenderers in respect of the request for information. This is in accordance with our obligations under the Freedom of Information Act 2000 (FOIA) and the ICO Code of Practice.

Redactions have been carried out to the documentation as below:

Section 40 Personal Information

Redactions have been carried out to documents on the grounds of Sections 40 (2) and (3) (a)(i) (*personal information*) of the Freedom of Information Act 2000. This exemption is absolute and no public interest test is required. The identification of named individuals, personal contact details and photographs constitutes personal data as defined in the Data Protection Act 1998 (DPA) and disclosing it would breach the fair processing principle set out in the DPA.

Section 41 Information provided in confidence

Providing Support to Health and Social Care



Section 41(1) states that *“Information is exempt information if-*

(a) It was obtained by the public authority from any other person (including another public authority), and

(b) The disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.” This exemption is absolute and no public interest test is required therefore information such as storage and security of patient records and systems, information relating to AccessNI etc has been redacted.

Section 43 Commercial Interests

Section 43(2) of the FOIA states that *“Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).”*

Under the FOIA, section 43 (commercial interests) is a qualified exemption. Under the FOIA, section 43 (commercial interests) is a qualified exemption. This means that even if information falls within an exemption, a public authority is under a duty to consider whether disclosure should nevertheless be made in the public interest.

A copy of the public interest test, as applied by BSO, is provided for your information

The Public Interest Test

In determining whether or not the public interest in withholding information outweighs the public interest in disclosing information, BSO considered the factors favouring disclosure and the factors against disclosure. The application of the Public Interest Test is set out below.

Exemption claimed in respect of Section 43(2) Commercial Interest			
In favour of disclosure of information		In favour of not disclosing information	
1	Expenditure of public money requires openness, transparency and accountability.	1.	The disclosure of the information may prejudice the winning tenderers' market position and therefore its commercial interests.
2	Disclosing information could feasibly aid the public in understanding public authority contracting arrangements and tendering processes.	2	Deter competition for public sector contracts – There is a public interest in ensuring that companies can compete fairly and that there is fair competition for public sector contracts. Disclosure of the information may prejudice this.

3	Promoting competition for public sector contracts – There is a public interest in ensuring that there is competition for public sector contracts. Increasing access to information about the tendering process may encourage more potential suppliers to enter the market. This could lead to improved bids/service improvements being submitted in future.	3	Disclosure may restrict the number of companies willing to work with the public sector for fear of losing a commercial advantage through the release of their tender documentation.
		4	Disclosure may deter suppliers from bidding for future opportunities. This in turn may lead to HSC not being able to attract the optimum service providers which will ultimately impact on the quality of service provided to the public.
		5	The release of such information to competitors could expose BSO PaLS to breaches of the principles of transparency, non-discrimination and equal treatment.
		6	The confidential nature of the information if disclosed could result in a claim for breach of confidence.

However, we are also aware of the importance in ensuring transparency as to how public money is spent. BSO therefore believes that in keeping with the Information Commissioner's Office (ICO) Decision Notice issued by the Commissioner on 10 January 2011 entitled "Department of Health" reference: FS50303047, it is appropriate to issue high level pricing information only which is available via the Contract Award Notice 2017/S 083-161311 published in the Official Journal of the European Communities 28/4/2017.

I hope that the information provided assists you. If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible or in any case within two months of the date of issue of this letter.

In the event that you require a review to be undertaken, you can do so by writing to

Information Governance Manager,
2 Franklin Street,
Belfast,

BT2 8DQ

If, following an internal review, carried out by an independent decision making panel, you remain dissatisfied in any way with the handling of the request, you may make a complaint under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the BSO has complied with the terms of the Freedom of Information Act.

You can contact Information Commissioner at:

Website: www.ico.org.uk
Phone: 0303 123 1113
Email: casework@ico.org.uk
Post: Information Commissioner's Office
3rd Floor, 14 Cromac Place
Belfast
BT7 2JB

In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out. However the Commissioner has the option to investigate the matter at his discretion.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Liam McIvor', written over a light blue horizontal line.

Liam McIvor
Chief Executive