

Monday, 17 August 2009



Ganesh Sittampalam
c/o request-14397-2de70417@whatdotheyknow.com

Our Reference: 46855

Dear Mr Ganesh,

I am writing with reference to your request for information Schedule E of the IDENT1 contract, dated 24 July 2009, made under section 1(1) of the Freedom of Information Act.

This request is a follow up to the original request (NPIA reference 46823, requesting all documentation relating to IDENT1 under the ICO decision notice, reference FS50125350.

I can confirm that the NPIA holds the information you have requested and the information that can be disclosed is enclosed. The remainder of the information that falls within the scope of your request is exempt from the right of access under the Act.

We consider the remainder of the information that falls within the scope of your request to be exempt from the right of access in accordance with sections 41(1) and 43(2) of the Freedom of Information Act.

Information we consider to be exempt from disclosure has been redacted from the document. The following tables summarises where this information has been redacted.

<i>Page Number</i>	<i>Paragraph/Section</i>
2	3.1
3	4.1.1
4-5	4.1.2 (a)
5-7	4.1.3
8	4.1.4
9-10	4.1.5 (a)

11-12	4.2.1
13	4.5
14	5.6
16	8.4.2 (b)
17	8.5.2 (i), (ii), (iii)
19	8.5.3 (b), (c), (e)
30	Annex E-3, 3.3.6
31	Annex E-3, 3.3.7
32-33	Annex E-3, 4.3.4, 4.4
34	Annex E-4, 2.4
35	Annex E-4, 2.5
37	Annex E-4, 3.2
38	Annex E-5, 2
45-49	Annex E-6-A, (ii)
53-54	Annex E-8, 2.2.1

Application of Exemptions

Sections 41 (Information Provided in Confidence)

Section 41(1) states that information is exempt if it was obtained by a public authority from any other person and the disclosure of the information to the public by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

Section 41 (1) of the Freedom of Information Act is an absolute exemption and it is therefore unnecessary to consider the public interest in the application of this exemption.

Section 43 (Commercial Interests)

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

Section 43 (2) of the Freedom of Information Act is a qualified exemption and, therefore, the legislators accept that there may be harm if information falling within the scope of this exemption were to be released. However, we are required to consider the balance of public interest in releasing the information.

Public Interest Test under Section [43]

Section [43] of the Freedom of Information Act is a qualified exemption and the Public Interest Test is assessed below. This considers whether or not it would be beneficial to the community at large to disclose the requested information.

HARM

The information contained within this document is very sensitive commercially, as it relates directly to the price and pricing methodology employed by the IDENT1 supplier.

The supplier is active within the highly competitive market of providing services to the public sector and would be seriously disadvantaged if this information were to be made public to a competitor in any current bid processes.

The disclosure of this information would also allow competitors to use this commercially sensitive information to inform their decision on whether to participate in future tenders operated by the Agency or on any pricing position they take within a tender, which could lead to an impaired competitive environment for the NPIA or even possible price fixing.

Consideration favouring disclosure:

Accountability

Disclosure of the information will demonstrate clearly that the NPIA (and previously PITO) act in a cost-effective and efficient & effective manner.

Use of Public Funds/Resources

Disclosure of the information shows that public funds have been used in a cost-effective and efficient & effective manner, thus ensuring "value for money" in operation of the services.

Considerations favouring non-disclosure:

Efficient and Effective Conduct of the Service or Force

The disclosure of redacted information would hinder the NPIA in securing "value for money". There would be a high risk of skewed competition if commercial information were to be generally available. It is recognised within procurement professions that such practices must not be carried out (for example the code of ethics advocated by the Chartered Institute of Purchasing and Supply).

Disclosure of redacted information would cause tenderers to offer less or incomplete information in EOIs and subsequent tenders due to the risk of this information being released into the public domain. This would have an adverse effect upon the quality of such applications and tendering procedures. It would then hinder the effective and efficient Evaluation process and could lead to inappropriate contract award.

Tenderers may increase risk premiums within tenders to protect themselves in such a state of unfair competition.

Interests of Third Parties

The disclosure of redacted information into the public domain could decrease the differentiation between suppliers, as processes, practices & pricing policies may become homogenised, thus endangering true and fair competition.

It would further hinder the ability of suppliers to act competitively in the market. Internal processes that allow such suppliers the ability to maintain a competitive edge would become public knowledge and hence could create unfair competition.

Balancing Test:

The NPPIA is responsible through the procurements and contracts that it manages for large sums of public money. As a result the actions and procedures of the Agency in the fulfilment of these duties are audited by the National Audit Office (NAO). The NPPIA is therefore accountable to an independent external body.

NPPIA have published accounts which again are audited by the NAO. The release of the redacted information would be of more value to a competitor rather than the general public.

Decision:

Upon reflection, I believe that the decision falls in favour of non-disclosure of the redacted information on the basis of the risks to the NPPIA and the competitive market for any future exercises.

Your Right to Complain

We take our responsibilities under the Freedom of Information Act seriously but, if you feel your request has not been properly handled or you are otherwise dissatisfied with the outcome of your request, you have the right to complain. We will investigate the matter and endeavour to reply within 3 – 6 weeks. You should write to:

David Horne
Director of Resources
National Policing Improvement Agency
10-18 Victoria Street
London
SW1H 0NN

E-mail: david.horne@npia.pnn.police.uk

If you are still dissatisfied following our internal review, you have the right, under section 50 of the Act, to complain directly to the Information Commissioner. Before considering your complaint, the Information Commissioner would normally expect

National Policing Improvement Agency

you to have exhausted the complaints procedures provided by the NPIA. The Information Commissioner can be contacted at:

FOI Compliance Team (complaints)
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Further information about the NPIA is routinely published on our website at www.npia.police.uk or through our publication scheme. If you require any further assistance in connection with this request please contact us at our address above.

Yours sincerely



Sue Moffatt
Head of Commercial and Procurement Unit