

Mr Ganesh Sittampalam

By e-mail to: request-35822-5de5e2ef@whatdotheyknow.com

Our Reference: 47195

30th June 2010

Dear Mr Sittampalam

I am writing in reference to your request for information 47195, dated 22 May 2010, relating to the Mobile Identification at Scene (Midas) Procurement decision, made under Sections 1 and 8 of the Freedom of Information Act.

I can advise that the NPIA holds all of the information referred to in your request and that all of the information that can be disclosed is enclosed with this response. The remainder of the information that falls within the scope of your request is exempt from the right of access under the Act.

In order to provide a coherent and easy to understand response, this correspondence has been structured in the following sections so that each element of the information requested is addressed in turn.

Section 1 A list of all the documents requested, with an indication of whether they have been disclosed in full or not and the exemption(s) that we consider are applicable if this is not the case.

Section 2 A detailed explanation of the application of each of the exemptions we consider applicable, included the Public Interest Test as appropriate.

Section 3 An individual plan of the information redacted from each of the documents that have not been disclosed in full and exemption we believe are applicable for each piece of information redacted.

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:

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 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

Christine New

Senior Project Manager - Identification
Information, Communications, Technology & Science Directorate

Section 1

The following tables sets out all of the documents that are covered by this request and how the NPIA have dealt with each one in turn under the terms of the FOIA.

1. Documents related to the decision on how to procure the MIDAS contract and any analysis of the commercial viability of using the IDENT1 contract versus going to public tender.
2. Procurement documents for mobile fingerprint devices issued to Northrop Grumman under the IDENT1 contract and notes on why these procurements did or didn't go ahead.

<u>Document</u>	<u>Outcome</u>
NPIA Lantern Project options for pilot extension and national capability, 21 June 2007	Personal details removed under section 40
NPIA Lantern Service Expansion – Contract Change Note CCN050, 7/8 November 2007	Personal details removed under section 40
Northrop Grumman – Change Control Note CCN050 “Lantern Service Expansion” dated 11 February 2008	Partially disclosed <ul style="list-style-type: none">- Elements relating to individual pricing and percentage breakdown exempt under Section 43 (2) (Commercial Interests) of the FoIA.- Some place names are exempt under Section 31 (1) (Law Enforcement) of the FoIA.
Record of the (teleconference) meeting of 28 February 2008 to discuss Proposed CCN050	Personal details removed under section 40
NPIA Summary of proposed CCN050	Personal details removed under section 40
NPIA Lantern Service Expansion – Contract Change Note CCN050 R1, 7/8 November 2007	Personal details removed under section 40
Northrop Grumman – Change Control Note CCN050 Revision 1 “IDENT1 Lantern Service Expansion” dated 31 March 2008	Partially disclosed <ul style="list-style-type: none">- Elements relating to individual pricing and percentage breakdown exempt under Section 43

	(2) (Commercial Interests) of the FoIA. - Some place names are exempt under Section 31 (1) (Law Enforcement) of the FoIA.
NPIA CCN 050 Evaluation and Project Board Recommendations 080403 v1.0 9 April 2008	Personal details removed under section 40
NPIA Lantern Project Board Minutes & Actions:16 April 2008	Personal details removed under section 40
NPIA Lantern Project – The Way Forward Project Board recommendations 080403 v1.0 9 April 2008	Personal details removed under section 40
The Way Forward e-mail from Sue Moffat 22 nd Feb 2008	Personal details removed under section 40
Summary of Proposed CCN050 dated 14 th Feb 2008	Personal details removed under section 40
Northrop Grumman – Change Control Note CCN050 “Lantern Service Expansion” Cover Letter dated 11 February 2008	Personal details removed under section 40
Northrop Grumman – Change Control Note CCN050 “Lantern Service Expansion” Cover Letter dated 31 st March	Personal details removed under section 40
CCN050r1 B-1 Description Final	Some place names are exempt under Section 31 (1) (Law Enforcement) of the FoIA.

Section 2

Some of the information that has been requested is considered to be exempt from the right of access under the Act in accordance with Sections 31(1), 40(2) 43(2).

These exemption are considered in detail below

Section 31(1) (a)(b) – Law Enforcement

Section 31(1) states that information is exempt if its disclosure under this Act would or would be likely to prejudice that prevention or detection of crime or it would or would be likely to prejudice the administration of justice.

Section 31(1) 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 31(1)

Section 31(1) 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 for the community at large to disclose the requested information.

HARM

The information contained within the documents requested includes detailed technical specifications of the IDENT1 system; its architecture; capabilities; interfaces with other Law Enforcement Systems and Networks and information on how it will be used operationally within the Law Enforcement Environment.

The Agency considers that the disclosure of this information would potentially have a detrimental effect on the activities of the Law Enforcement community in its use and application of the IDENT1 System and that any compromise to the prevention and detection of crime that results could pose a threat to public safety and the administration of justice.

The Agency is also concerned that the disclosure of information relating to how the IDENT1 and MobileID System will connect and interoperate with other systems within the Law Enforcement Environment, including details of the security measure employed to secure this interfaces, may endanger the integrity of these interfaces and the systems that are connected through them.

Considerations favouring disclosure

Accountability

Release of the information withheld would allow the public to assess whether the authorities involved in the tendering and use of MobileID were acting in an efficient and effective manner in their activities relating to the detection or prevention of crime and the administration of justice

Public Safety

The collection, use and protection of the data that will be core to the utilisation of MobileID are of prime concern to the public. They have a right to assure themselves, as far as possible, that the system is safe and secure and that the data cannot fall into the wrong hands. The means of identification of suspects

and the integrity of the system is also of prime concern to the public in providing an effective tool for Law Enforcement

Considerations favouring non-disclosure

Efficient and Effective Conduct of the Service

Release of this information may compromise the current or future role of law enforcement by the Police Service and the NPIA. As mentioned above the release of this information could have the affect of undermining the effectiveness of the IDENT1/MobileID System and is use within crime detection and criminal identifications

Confidence in the System

Public confidence in the MobileID and IDENT1 systems and their use within the Law Enforcement Environment may be undermined if information revealing potential methods to compromise the system were released, which consequently revealed how to either access the data held.

Public Safety

The release of information that may enable individuals to attack and gain access to the MobileID System and any other Law Enforcement System that it has an interface with could ultimately lead to a risk to public safety and security

Balancing Test

The NPIA has a responsibility to maintain public confidence in the work that it undertakes on behalf of the Policing Community and the Products and Services that it provides to enable Police Forces to exercise their duties. The Agency recognises that the information held within the IDENT1/MobileID System used within Law Enforcement is of prime concern to the public but that any desire to provide reassurance in this area needs to be balanced against assuring the integrity of Policing System, the security of data and ultimate aim of protecting public safety through the correct application of the criminal justice process.

Decision

Upon reflection, it is considered that the decision falls in favour of non-disclosure of the redacted information on the basis that its release may prejudice the prevention or detection of crime and the administration of justice.

Section 40(2) – Personal Information

Section 40(2) states that information that constitutes 'personal data' under the terms of the Data Protection Act 1998 and whose disclosure would contravene 'any of the data protection principles' is exempt from disclosure under the Freedom of Information Act

Section 40(2) of the Freedom of Information Act is an absolute exemption in so far as it relates to cases where the first condition referred to in the subsection is satisfied by virtue of dissemination of the information would contravene any of the data protection principles. The Agency can confirm that the information that is considered exempt is personal data and that the data subjects in this case provided this information for the sole purpose for its inclusion within the Midas provider's tender submission, the assessment of the tender and not for further dissemination. To disclosure this information would thus contravene the 1st Data Protection Principle – namely fair and legal processing.

As Section 40(2) is an absolute exemption it is therefore unnecessary to consider the public interest of the application of this exemption. The Agency has however reviewed this information in context of the guidance provided on this Section by the Information Commissioner's Office and has made a distinction between the personal data of Senior Individual's who could be considered to have a 'reasonable expectation' that their personal data will be disseminated more widely and more junior members of staff, where this would not be the case. These factors have been considered when decisions have been taken on which information to disclose and which to redact.

Section 43(2) – Commercial Interests

Section 43(2) states that information may be exempt from disclosure under this Act if its disclosure would or would likely to prejudice the commercial interest 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(2)

Section 43(2) 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 for the community at large to disclose the requested information.

HARM

The Mobile ID bidders operate in a highly competitive market which provides innovative biometric identification solutions to public sector organisations globally. This provider's position within this market would be severely weakened if all of the information requested were made public to any competitor in any current or future competitive tender exercise. The supplier, Northrop Grumman, has provided evidence to the NPIA of current procurement tenders that they are engaged in, with global customers, where they could be significantly commercially disadvantaged by the publication of their detailed pricing structure.

The NPIA also considers that in releasing this information the commercial interests of the Agency itself could also be prejudiced. Firstly that in doing so it would damage the commercial relationship between itself and a significant strategic partner who may as a result become reticent to engage with the NPIA on similar opportunities in the future. Secondly that the release of this information may make other potential suppliers reluctant to engage with the Agency and share their commercially sensitive information for fear that it will become public knowledge at some stage and prejudice their commercial interest. Lastly, the dissemination of commercially sensitive information within a competitive market could result in a skewed competitive position reduce the impact of genuine market forces to regulate prices and drive innovation

The impact of all of the outcomes described above would be to diminish the NPIA's ability to achieve value for money on project in this area and identify the most economically advantage solutions for the UK Law Enforcement community.

Considerations favouring disclosure

Accountability

There is a strong public interest in ensuring the NPIA is fully accountable in the way that it discharges its duties and commits public funds and that there is transparency in that accountability. The release of this information would contribute to that accountability and allow the public to scrutinise the actions of the Agency. Publication of the high level financial information should meet this consideration.

Use of Public Funds/Resources

Disclosure of this information would show that public funds have been used in a cost-effective and efficient and effective manner, thus ensuring that value for money in the operation of this service is being achieved.

Compliance to Procurement Legislation

The release of this information would serve the public interest by allowing the public to judge whether the NPIA's procurement process relating to the Midas Procurement has been conducted in an open and honest way in accordance with EU and UK procurement legislation

Commercial Development

Release of certain commercial information may assist commercial organisations to develop solutions that better fit the needs of public sector organisations.

Considerations favouring non-disclosure

Efficient and Effective Conduct of the Service

Disclosure of commercially sensitive information would severely inhibit the NPIA's ability to achieve value for money in its operations and deliver appropriate technical solutions to the UK Police Forces.

If, through the disclosure of this information, current and future suppliers become reluctant to engage with the Agency on future procurement exercises, the NPIA could be faced with an impaired competitive landscape that does not represent an accurate picture of the range of potential solutions and suppliers that should be available to it. Those suppliers who do choose to engage with the Agency could offer less or incomplete information in response to Expressions of Interest or tenders in response to the risk that any information supplied may be released into the public domain. The subsequent impact on the quality and number of bids to select from may hinder the efficient workings of a tender evaluation process and lead the Agency into having to select a sub-optimal solution both in terms of the operational benefits that it will bring and the value for money that it will achieve. Tenderers may also increase the risk premium that they include within the bid pricing to protect themselves for the loss of commercially sensitive information and the competitive advantage that comes from it.

The ultimate impact of these effects will be to prevent the Agency effectively supporting UK Policing in ensuring public safety and the delivery of value for money and the appropriate use of public funds.

Interests of Third Parties

The disclosure of the withheld information into the public domain could decrease the differentiation between suppliers, as processes, practices and commercial offerings may become homogenised, thus endangering true and fair competition. This would further hinder the ability of suppliers to act competitively within the

market. Internal processes that allow such suppliers to create and maintain a competitive advantage would be lost as they become public knowledge, creating unfair competition and stifling innovation and creativity.

Balancing Test

The NPIA has a responsibility through its procurement and commercial functions to manage and commit large sums of public money. As a result, the actions and procedures used in the fulfilment of these duties are audited by the National Audit Office (NAO) and therefore the NPIA is accountable to an independent external body

The NPIA does recognise the public has a genuine interest in knowing that the NPIA discharges its duties in this area correctly and that value for money is being achieved through its procurement activities. However in releasing this information the Agency considers that it would be hindering its ability to achieve the very thing that the public is concerned with.

As a result, the public's interest in receiving openness and transparency must be considered along side the ability of the Agency to operate and find the most appropriate solutions for UK Policing, both in terms of technical capabilities and value for money and to develop a competitive situation, with the correct balance and mix of suppliers to achieve this.

It is also considered that some of the information under consideration here will be more value to the competitors of the MobileID Provider rather than to the general public.

Decision

Upon reflection, it is considered that the decision falls in favour of non-disclosure of the redacted information on the basis that to do so would prejudice the commercial interest of both the MobileID provider and the NPIA and would put at risk the competitive market for any future exercise.

Section 3

This section contains an individual plan of the information redacted from each of the documents that have not been disclosed in full and the exemptions we believe are applicable for each piece of information redacted.

Northrop Grumman – Change Control Note CCN050 “Lantern Service Expansion” dated 11 February 2008; &

Northrop Grumman – Change Control Note CCN050 Revision 1 “IDENT1 Lantern Service Expansion” dated 31 March 2008

Information has been redacted from the following sections of this document as it considered that they are exempt from disclosure under the Freedom of Information Act, Section 43 (2) (Commercial Interests).

A. Attachment B-3 Evaluation Value for Money details – dated 31 March 2008

- Page 5/6, Hardware, Software, Licences Bill of Materials Subtotal column
- Page 8/9, Other Direct Costs, Travel, and Material Subcontractors, approx % Column
- Page 10, Other Direct Costs, Travel, and Material Subcontractors approx % Column.

B. Attachment B-4 Evaluation, IDENT1 Lantern Service Expansion.

- Page 2/3, line 3 Baseline charges for IDENT1 Lantern.

C. Schedule E (Pricing) Final & marked versions

- Pages 2 – 113 in entirety as this relates to the pricing under IDENT1 for the main system and is beyond the scope of what was requested by the applicant. It is also considered exempt under section 43(2) Commercial Interests. Only Annex E-13 relates to the proposed provision for the extension of the Lantern service.
- Annex E-13 page 114, Item 4 Baseline charges for IDENT1 Lantern Service Expansion. Second column individual prices.

Information has been redacted from the following sections of this document as it considered that they are exempt from disclosure under the Freedom of Information Act, Section 31 (Law Enforcement)

A. Attachment B-3 Evaluation Value for Money details – dated 31March 2008

- Page 10, Other Direct Costs, Travel, and Material Subcontractors approx % Column – in the Description field.

B. Attachment B-1 Evaluation Value for Money details – dated 31March 2008

- Page 10, Figure 2-3.