

Freedom of Information Request 70-16

Request

I would like to see blank copies of the most recent Children's and Adults Social Care replacement IT systems tender documentation including system specification and marking criteria.

I would also like to see the suppliers winning submissions if available.

Response

Your request for information has now been considered. Rotherham Metropolitan Borough Council cannot supply all the information you have requested for the reasons set out below.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in a request is held, The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held.

Where exemptions are relied upon Section 17 of the Freedom of Information Act 2000 requires that we provide the applicant with a notice which:

- (a) states the fact,
- (b) specifies the exemption in question and
- (c) states (if that would not otherwise be apparent) why the exemption applies:

In relation to this particular request, the following exemption applies

Section 43 – Commercially Sensitive information

Question 1

Please see attached blank copy of the most recent Children's and Adults Social Care replacement IT systems tender documentation as requested.

Question 2

The section 43 exemption of the Freedom of Information Act 2000 applies to this part of your request. Section 43 is a class based, qualified exemption

which means the legislators have agreed there would be harm if this information was released and a Public Interest test must be carried out.

Harm

The information requested represents intellectual property and is contained in the tender submitted by the companies as part of the competitive tendering process. As such, it is likely to be commercially sensitive and disclosure could prejudice the company's commercial interests. Disclosing a breakdown of costs and their methodology used would likely provide an advantage to rival businesses and undermine the company's trading ability to tender for future contracts. Companies may lose confidence in the Rotherham Metropolitan Borough Council, compromising their integrity and causing a detrimental impact on the reputation of the Organisation.

Public Interest Test

Factors Favouring Release

Releasing this information would facilitate the accountability and transparency of public authorities in the spending of public money. There is a keen public interest in how public authorities spend taxpayers' money and that value for money is achieved. Disclosure would better inform the public of the costs involved.

Factors Favouring Retention

To ensure fairness during the tendering process, parties do not have access to tender details from other competitors. Companies compete with rivals and any difference in their tender is often reflected in the price. Information identifying any unique elements such as specification or quality is likely to be commercially sensitive. Exposing pricing strategies could disadvantage the company and weaken their ability to tender for future contracts in a competitive market, impacting on future business revenue. The Rotherham Metropolitan Borough Council commercial interests would likely be prejudiced if tender details were disclosed, damaging the business reputation of the Organisation. Disclosure could discourage companies from submitting commercially sensitive information and consequently undermine the ability of the Rotherham Metropolitan Borough Council to procure best value for public funds and to conduct a fair tender competition in the future.

Balance Test

Release of this information would likely harm the process of future tenders and prejudice the commercial interests of the Rotherham Metropolitan Borough Council and the company which successfully bid for the contract. A breakdown of costs and methodology of the winning tender are commercially sensitive and could provide competitors with an unfair advantage. No release of information should be made

under FOI where a commercial advantage would be provided. Whilst accountability surrounding the use of public funds is always a strong argument in favour of releasing information, I have decided that disclosing details of the winning tender and a breakdown of costs at this time would not be in the public interest.

Therefore please see the attached redacted tender documents won by Liquidlogic