

Our ref: 769,694

Your ref:

Ms Humphrey
Ms Humphrey <request-563178-
986ab10c@whatdotheyknow.com>

via E-mail

cc:

From: Nicola Patchett
**C&P Business Information
and Assurance team**
4 North
Lateral
8 City Walk
Leeds LS11 9AT

GTN: 0300 470 2534
07795290527
6 June 2019

Dear Ms Humphrey

FOI 769, 694

I am writing to confirm that we do hold the information you requested on 19 March 2019 but have decided that some of this information cannot be disclosed.

Following agreement from the bidders, the information that can be released is the National Roads Telecommunications Services (NRTS) 2 Contract bidders details. These are:

Organisation name: Costain Ltd

Address: VAnwall Business Park

Maidenhead

Berkshire

SL6 4UB

UNITED KINGDOM

Main Organisation Phone Number: 01628 842444

Organisation Fax Number: 01628 674477

Web site: www.costain.com

Organisation Legal Structure: Private Limited Company (Ltd)

Company Registration Number (if not registered enter 'N/A'): 610201

VAT Number (if not registered enter 'N/A'): 235 9835 31

Organisation Name: Fluor Limited

Address line: 140 Pinehurst Road

Farnborough

Hampshire

GU147BF

UNITED KINGDOM

Main Organisation Phone Number: 01252291000

Web site: Fluor.com

Organisation Legal Structure: Public Limited Company in UK or Inc. in USA

Company Registration Number (if not registered enter 'N/A'): 1274885

VAT Number (if not registered enter 'N/A'): GB342173774

Organisation Name: Telent Technology Services Limited

Address line: Point 3, Haywood Road

Warwick

WARWICKSHIRE

CV34 5AH

UNITED KINGDOM

Main Organisation Phone Number: 019 2669 3000

Organisation Fax Number: 019 2669 3888

Web site: www.telent.com

Organisation Legal Structure: Private Limited Company (Ltd)

Company Registration Number (if not registered enter 'N/A'): 703317

VAT Number (if not registered enter 'N/A'): GB 239 1370 65 (701)

The following information is being withheld under the exemption in section 43

[<https://www.legislation.gov.uk/ukpga/2000/36/section/43>] of the Freedom of Information Act 2000:

The bidders' sub-contractor details.

In applying this exemption we have had to balance the public interest in withholding the information against the public interest in disclosure. The key public interest factors for and against disclosure are in Appendix A of this letter.

If you are unhappy with the way we have handled your request you may ask for an internal review within 2 months of the date of this response for Freedom of Information requests.

Our internal review process is available at:

<https://www.gov.uk/government/organisations/highways-england/about/complaints-procedure>

If you require a print copy, please phone the Information Line on 0300 123 5000; or e-mail info@highwaysengland.co.uk. You should contact me if you wish to complain.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

If you have any queries about this letter, please contact me. Please remember to quote reference number 769, 694 in any future communications.

Yours sincerely

Nicola Patchett
Business Manager

Appendix A

FOI 769, 694 Request for NRTS2 Bidders names and sub-contractor names	
FOIA Exemption Section 43 Prejudice to Commercial Interests	
<p>Reasons why disclosure is considered commercially prejudicial</p> <ul style="list-style-type: none"> The bidders object to the release of their sub-contractor information because it is commercially sensitive information. If we ignore their request to withhold the information this may deter them from bidding in future competitions. Providing the sub-contractors names associated with unsuccessful bidders may damage the reputation of the sub-contractors. Bidders were asked to provide their bid against an output based specification. The bidders use specialist sub-contractors. By disclosing the name of the sub-contractors within the bids there is a high risk that this information would provide an insight in to the way in which the bidder tendered for the contract. By releasing the names of the sub-contractors the bidders' future bidding strategies may be affected and competition reduced. 	
Public Interest Factors	
For Disclosure	Against Disclosure
<ul style="list-style-type: none"> Openness and Transparency - there is a public interest in the work of public sector bodies such as Highways England being closely examined to encourage the discharging of public functions in the most efficient and effective way. Accountability for the spending of public money. There is an important public interest in the work of public bodies being scrutinised to increase accountability and to protect the public purse. If people have a better understanding of how public money is spent, this may give them more confidence in the integrity of the public body and in its ability to effectively allocate public funds. Promoting competition in procurement via transparency. There is a public interest in encouraging competition for public sector contracts. Greater transparency about the tendering process and the negotiation of public sector contracts may encourage companies to take part in the process and help them improve their bids. This will increase competition and therefore help public authorities to get value for 	<ul style="list-style-type: none"> Competition – there is a public interest in allowing public authorities to withhold information which if disclosed, would reduce its ability to negotiate or compete in a commercial environment. Reputational damage/loss of customer confidence – disclosure of information may cause unwarranted reputational damage to a public authority or another organisation whose information it holds, which may in turn damage its commercial interests through loss of trade. Impact on other negotiations – revealing information such as a pricing mechanism can, for example, be detrimental to a public authority's negotiations on other contracts and procurements. If an organisation knows how a public authority costs an item or service for example, then it can exploit this for profit or other gain.

<p>money. Transparency of tender information is therefore beneficial to the whole process.</p>	
<p>Conclusion: Highways England asked the tenderers whether they were willing to have details of the sub contractors in their supply chain disclosed and the response from all three was negative. No reasons were provided. However, we consider that there are valid arguments which support withholding the information and these are set out above. Sub contractors associated with an unsuccessful bid are entitled to be protected from any reputational damage. Also, the fact that a particular sub-contractor was engaged by the successful bidder is something which may have contributed to a favourable quality score and it is entitled to preserve confidentiality around the way it chooses to compile its bids.</p> <p>Having identified prejudice, the public interest test was applied using the factors described above. Whilst the benefits of openness, transparency and increased competition are appreciated, in this case it was felt that the potential for reputational damage and the undermining of competitiveness in future procurements prevailed. Accordingly, the decision was to withhold the sub-contractor information in the National Roads Telecommunications Services 2 tender documents.</p> <p>PIT Members:</p> <p>Date of PIT: 05/06/2019</p>	