

25 October 2023

## **IC-262472-J2P1**

### **Request**

You asked us:

*"I am writing to you under the Freedom of Information Act 2000 to request the following information for the Project - UK-Wilmslow: ICO SME Data Essentials LMS, Notice Reference - GB003ZM492917*

- 1. Copy of successful tender (by removing confidential information)*
- 2. Scoring table of all bidders, split by scores awarded for each question of bid.*
- 3. Approximate date that the tender will be reissued towards the end of the current contract period.*
- 4. How many bidders submitted responses?*
- 5. Name of all bidders who submitted responses.*
- 6. Rank of all bidders who submitted responses"*

We received your request on 5 October 2023.

We have handled your request under the Freedom of Information Act 2000 (the FOIA).

### **Our response**

We can confirm that we hold some information in scope of your request. We have answered your questions in turn.

*1. Copy of successful tender (by removing confidential information)*

This information is not currently held. The procurement remains ongoing.

*2. Scoring table of all bidders, split by scores awarded for each question of bid.*

This information is being withheld as disclosing it would be prejudicial to commercial interests. Please see below for further information on this exemption.

*3. Approximate date that the tender will be reissued towards the end of the current contract period.*

This information is not held. Reprocurements are not planned this far in advance.

*4. How many bidders submitted responses?*

34 bidders submitted responses.

*5. Name of all bidders who submitted responses.*

This information is being withheld as disclosing it would be prejudicial to commercial interests. Please see below for further information on this exemption.

*6. Rank of all bidders who submitted responses"*

This information is being withheld as disclosing it would be prejudicial to commercial interests. Please see below for further information on this exemption.

**Information withheld**

**FOIA section 43 – commercial interests**

The information in scope of questions 2, 5 and 6 engage section 43 of the FOIA, which exempts information which could prejudice commercial interests. We consider that the disclosure of details about the bidders and the rankings of their bids during an ongoing procurement would be likely to prejudice the commercial interests of both ourselves and the bidders.

The ICO's guidance on what constitutes a commercial interest states that:

*"A commercial interest relates to a person's ability to participate competitively in a commercial activity."*

FOIA section 43 states:

*"Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interest of any person (including the public authority holding it)."*

This is a qualified exemption and requires that we carry out a public interest test.

In this particular case we consider that the factors in favour of disclosing this information are:

- Promoting accountability and transparency in the way the ICO conducts its business and how it determines the procurement of goods and services.

The factors for maintain the exemption and withholding the information are:

- Prejudice to the ICO's freedom to assess bids in confidence to secure arrangements that provide the best value;
- The risk that suppliers may be reluctant to engage in future bids with the ICO if they know that information about their bids can be made public prematurely or, in some cases, at all; and
- Prejudice to the bidders' ability to win contracts with other organisations – if information about their bids and rankings are made public prematurely or, in some cases, at all, this can affect their likelihood of obtaining other contracts.

We consider that in these circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing this information.

This concludes our response to your request.

### **Next steps**

You can ask us to review our response. Please let us know in writing if you want us to carry out a review. Please do so within 40 working days.

You can read a copy of our full review procedure [here](#).

If we perform a review but you are still dissatisfied, you can complain to the ICO as regulator of the FOIA. This complaint will be handled just like a complaint made to the ICO about any other public authority.

You can [raise a complaint through our website](#).

## **Your information**

Our [Privacy notice](#) explains what we do with the personal data you provide to us, and set out your rights. Our retention schedule can be found [here](#).

Yours sincerely



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Strategic Planning and Transformation  
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