

01 November 2023

ICO Case Reference IC-263810-Q1K7

Request for information

Request received 11 October 2023:

"I am writing to you under the Freedom of Information Act 2000 to request the following information for the Project - ICO - ENTERPRISE DATA STRATEGY, Notice Reference - BIP781464446

- 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"*

Your request has been handled under the Freedom of Information Act 2000 (the FOIA). This legislation provides public access to recorded information held by a public authority unless an appropriate exemption applies.

Our response

We do hold some information in scope of this request.

1. Please find the requested information attached. Some information has been redacted or withheld under section 40(2) of the FOIA. Other information has been redacted or withheld under section 43 of the FOIA. Please see below for further information about these exemptions.
2. This information is being withheld under section 43 of the FOIA.
3. We do not hold information in scope of this part of your request. This is a one-off project.
4. 15 bidders submitted responses.

5. Adatis, Agile Solutions, Analytics Engines, Artefact, Comet, Cynozure, Digital Data, Human Engine, Moore Insight, Pivotl, Public Group, Socitm, The Oakland Group, VE3 Global, Volt International.
6. This information is being withheld under section 43 of the FOIA.

FOIA section 40(2)

Some third-party personal data has been redacted or withheld from our response. Section 40(2) of the FOIA exempts information if it is personal data belonging to an individual other than the requester and it satisfies one of the conditions listed in the legislation.

We find that the condition at section 40(3A)(a) applies in this instance: that disclosure would breach one of the data protection principles. The principles are outlined in the UK General Data Protection Regulation (UK GDPR) with the relevant principle on this occasion being the first principle as provided by Article 5(1): that personal data shall be processed lawfully, fairly and in a transparent manner.

We do not consider that disclosing this information is necessary or justified. There is no strong legitimate interest that would override the prejudice to the rights and freedoms of the relevant data subjects. We have therefore taken the decision that disclosing this information would be unlawful, triggering the exemption at section 40(2) of the FOIA.

FOIA section 43

Some of the information you have requested is exempt from disclosure under section 43 of the FOIA. Section 43(1) states:

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

A 'person' may be an individual, a company, the public authority itself or any other legal entity. Our guidance on what constitutes a commercial interest states:

"A commercial interest relates to a person's ability to participate competitively in a commercial activity." ([Section 43 - Commercial interests](#)).

Section 43 is not an absolute exemption, and we must consider the prejudice or harm which may be caused by disclosure. We must also carry out a public interest test to weigh up the factors in favour of disclosure and those against.

We consider that the disclosure of some of the information that we hold in scope of your request is likely to prejudice the commercial interests of the companies who submitted bids, as well as the commercial interests of the ICO itself, including the ICO's ability to access the most suitable service providers and the most competitive rates.

Disclosure of some of the information requested in point 1 of your request is likely to prejudice the commercial interests of the organisation that won the bid as the withheld information relates to commercially sensitive pricing information, and their business relationships with other organisations.

Disclosure of the information requested in points 2 and 6 is likely to prejudice the commercial interests of the other bidders because the information reveals details about the nature, quality, and scope of their bids, which is based on information shared with us in confidence.

Disclosure of the withheld information is also likely to prejudice the commercial interests of the ICO because it could harm our ability to procure competitive bids for future projects and damage the free flow of information between us and potential commercial partners, hampering negotiations and our ability to secure the best prices for goods and services.

With this in mind, we have then considered the public interest test for and against disclosure.

In this case, the public interest factors in disclosing the information are:

- Promoting accountability and transparency in the way ICO spends money, conducts its business, and determines the procurement of goods and services.
- The public interest in how the ICO works with external companies in relation to the above.

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

- The public interest in a range of businesses being willing to engage in future tenders with the ICO, or to offer favourable rates and/or terms, without concern that information about their bids and their relationships with other businesses might be made public.
- The public interest in a range of businesses being willing and able to bid for contracts, without fear that their ranking will be made public, potentially affecting their ability to obtain other public sector and publicly funded contracts, or to effectively negotiate with other clients.
- The public interest in the ICO being able to freely negotiate in confidence, to secure arrangements that provide the best services and the best value for money.
- The public interest in not disclosing sensitive commercial information which could allow competitors' an unfair advantage for similar tenders in future, and in ensuring a level playing field between competitors when it comes to commercial tendering, safeguarding value for money for public sector contracts.

Having considered these factors, we are satisfied that it is appropriate to withhold the information.

This concludes our response to your request.

FOI review procedure

If you are dissatisfied and wish to request a review of our decision or make a complaint about how your request has been handled you should write to the Information Access Team at accessicoinformation@ico.org.uk, or the postal address below.

Your request for internal review should be submitted to us within 40 working days of your receipt of this response. Any such request received after this time will be considered only at the discretion of the Commissioner.

If having exhausted the review process you are not content that your request or review has been dealt with correctly you have a further right of appeal to this office in our capacity as the statutory complaint handler under the legislation.

To make such an application, please write to our FOI Complaints and Compliance team at the address given, or visit our website at [Official information concern | ICO](#).

Your information

Our [Privacy Notice](#) explains what we do with the personal data you provide to us and what your rights are. This notice includes entries regarding the specific purpose and legal basis for the ICO processing information that people such as [information requesters](#) have provided to us.

The length of time we keep information is laid out in our [retention and disposal policy](#).

Yours sincerely

Information Access Team

Strategic Planning and Transformation

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

T. 0303 123 1113 ico.org.uk twitter.com/iconews

For information about what we do with personal data see our [privacy notice](#)