

Our ref: FOI 757, 632

Your ref:

[REDACTED]

via E-mail

cc:

From:

[REDACTED]

GTN:

[REDACTED]

11 January 2018

Dear [REDACTED]

**FOI 757, 632 REQUEST FOR TENDER SUBMISSIONS AND CONFIRMATION REGARDING
ADMINISTRATION PROTECTION**

I am writing to confirm that we do hold the information you requested on 18/12/2017 but have decided that some of this information cannot be disclosed.

The information that can be released is:

Risk Register
Health & Safety Statement
Contract Data Part 1
Works Information docs 3a-d & 3f

A copy of the above information is enclosed.

The following information is being withheld under the exemption(s) in section(s) 40 and 43(2) of the Freedom of Information Act 2000:

Suppliers tender submission which includes CVs, Key people docs, method statement, method questions, staff rates, contract data part 2 and site information.

You also asked if a company goes into administration how is Highways England (HE) structured to protect sub-contractors such as ourselves – Geomatics UK Ltd.

I attach the Collaborative Delivery Framework Information and Conditions of Contract which are used to procure design and construction services through the framework. The conditions include all the standard and optional clauses that are used including subcontracting provisions, which you may find useful.

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 attached:

Request for 757,632 Information

FOIA Exemption S.43 (1) & (2) – Commercial Interests

<i>Factors supporting disclosure</i>	<i>Factors supporting non-disclosure</i>
<ul style="list-style-type: none"> • There is a clear public interest in the work of government being closely examined to encourage the discharging of public functions in the most efficient and effective way; • There is an important public interest in the work of public bodies being transparent and open to scrutiny to increase diligence and to protect the public purse; • There is a public interest in disclosing information about public procurements to ensure there is transparency in the spending of public money and that public bodies are getting value for money when entering into contracts; • There is a strong public interest in releasing information which shows the criteria used when assessing options to illustrate that the processes used were fair and appropriate. <p>Risk Register – None of the FOIA Exemptions met and therefore agreed that this document can be disclosed. Uphold.</p> <p>Method questions 3.0 – none as there would not be much of the document left to release when the commercial sensitive elements are redacted.</p> <p>Staff rates/Detail rate card – Sec 40 and 43(2) apply here as the document contains people info and their personal salary rates.</p>	<ul style="list-style-type: none"> • The procurement process must be seen to be fair and that commercial interests of the suppliers of services are not unduly prejudiced by the release of commercially sensitive information. It is important to maintain the confidence of our suppliers in order to achieve best value for the tax payer; • The methodology outlined in the bid may be construed as a “trade secret” in that it is a strategy owned and developed by the consultant. If the methodology was made available to competitors in the market place it would undermine the commercial interests of the consultant when bidding for other contracts by reducing their competitive edge; • To reveal the details of the bid would seriously undermine our ability to negotiate the best value for money for the public purse on future contracts as the rates and methodology are still current; • The supplier Sisk & Lagan have specifically written to Highways England requesting that their submission is not published or released as it contains their unique methodology which they consider to be commercially sensitive and do not wish for it to be released for up to 5 years from the award date. The object to the release of their bid information on the grounds that it contains commercially sensitive information in terms of a “trade secret” and rates; and such a release would be actionable. Upheld. <p>Risk Register – no reason to withhold established and no FOIA exemptions met. Will release pending redactions to personal staff names.</p> <p>Method questions 3.0 – contains their technique/method for delivering, run the site and achieve the contract which the supplier considers commercial sensitive. Uphold.</p> <p>Staff rates/Detail rate card – commercial sensitive contains people info and their personal rates. Tobe withheld under Sec 40</p>

<p>Method Statement 1.0 – there is no reason to disclose under public interest. This is a live contract that is still running so release of this information is not in the public interest and can damage the supplier’s competitive capability/advantage to tender for future similar contracts.</p> <p>Contract data part 1 - 1 standard HE template, contains nothing that is not already in the public domain and no FOIA Exemptions are met. Uphold and release.</p> <p>Contract data part 2 – there may be elements that could be released but once the redactions are made there will be very little useful info left which won’t be in the public interest.</p> <p>Works information document – This is a standard HE template document and outlines HE’s requirement for this work and therefore there is a public interest in releasing this. Uphold and release.</p> <p>Site Information Doc – This document contains drawings of the site and site information and there is no FOIA exemption to withhold it from publication. However there is a serious question around time and availability in obtaining all 111 docs which will not offer the requestor much value/info.</p>	<p>and 43(2). Uphold.</p> <p>Method Statement 1.0 – contains the unique bid and methodology to deliver the contract which is specific to the supplier and is commercial sensitive so will not be released. Uphold.</p> <p>Contract data part 1 None – as no FOIA Exemptions are met so no reasons to withhold.</p> <p>Contract data part 2 – contains suppliers staff rates and submission and methodology which the supplier considers being their trade secret and releasing it will put them at a competitive disadvantage. Agreed and Uphold.</p> <p>Works information document – No exemptions met so no reason to withhold.</p> <p>Site Information Doc – This is not held by HE on SHARE. It was uploaded to Bravo our e-tendering system directly by the supplier. It consists of 111 documents and will take an excessive amount of time to download and prepare and will also have to be put on disk. This would incur disproportionate cost to HE so it was agreed that this would not be released.</p>
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FOIA Exemption S.40 (2) - Personal Information

<p>CVs- None as Sec 40 of the FOIA applies here and it is not in the public interest to release.</p> <p>Organisation chart – contains names of various staff, agreed that Sec 40 applies.</p> <p>Key People narrative document – contains staff roles and addresses and no reason to disclose as it is not in the public interest.</p> <p>CPP Appendices – Once all the staff data is removed all that is left in this document is the fire emergency plan which is not in the public interest to release and offers no value to the requestor.</p> <p>H&S doc – no reason to withhold, generic h&s</p>	<p>CVs - The bid includes a significant volume of CVs which contain personal information of people not in the public domain. To release the information would contravene the data protection principles. Uphold.</p> <p>Organisation chart – contains names of various staff which meets Sec 40. Uphold.</p> <p>Key People narrative document – contains roles and addresses which meets Sec 40. Uphold.</p> <p>CPP Appendices contains names, email and phone numbers of staff members which meets Sec 40. Uphold.</p> <p>H&S document – contains names and CV</p>
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solution that are basic requirements of the law are easily available in the public domain and maybe of interest to the general public. Uphold and release pending redactions of all personal staff names.	elements so this will be redacted which meets Sec 40 and these will be redacted before release.
<p>Conclusion: there are compelling arguments which support withholding the information which outweigh those supporting release.</p> <p>PIT Members: [REDACTED]</p> <p>Date of PIT: Fri 5 January 2018</p>	

If you are unhappy with the way we have handled your request you may ask for an internal review. 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 [CRS reference] in any future communications.

Yours sincerely

[REDACTED]