

PART 2 – CONFIDENTIAL FACTS AND ADVICE

DMFD 21

Title: Provision of Portable Hygiene Units

Information may have to be disclosed in the event of a request under the Freedom of Information Act 2000. In the event of a request for confidential facts and advice, please consult the Information Governance team for advice.

This information is not for publication until the stated date, because:

Appendix 1 of LFC-0096 (attached) to the London Fire Commissioner (LFC) contains tendered prices of the proposed successful tenderer and details of LFC's procurement approach. Publishing that information would prejudice or harm the commercial interests of the tendering business and would risk prejudicing the LFC's negotiating position and inhibit the LFC's ability to secure value for money on behalf of the public.

Date at which Part 2 will cease to be confidential or when confidentiality should be reviewed:

1 April 2022

Legal recommendation on the grounds of keeping the information confidential:

In the event of any request for access to the information contained in this document and/or its appendix under section 1 of the Freedom of Information Act 2000 ("the Act"), it is considered that access can be denied on the basis that the disclosure of such information would prejudice:

- the commercial interest of the proposed successful tenderer, Site-Equip Limited, as it includes pricing information provided during the tendering process; and
- LFC's commercial interests as its release could have an adverse impact on the LFC's ability to secure best value on the services being procured as planned and in future procurements,

and therefore, is covered by the exemption under section 43 of the Act.

Section 1 of the Act creates the general right of access, which provides that any person making a request for information to a public authority is entitled:

- to be informed in writing by the public authority whether it holds information of the description specified in the request; and
- if that is the case, to have that information communicated to him/her.

Part II of the Act contains a number of exemptions from disclosure for certain classes of information. Section 43 of the Act provides that information is exempt information if its disclosure under the Act would, or would be likely to prejudice the commercial interests of any person (including the public authority holding it).

The paragraph above states that the information is considered commercially sensitive as its release could detrimentally affect (i) the commercial interest of the proposed successful tenderer, Site-Equip Limited, and (ii) the ability of the LFC to negotiate the optimum terms when the services are procured (and in future procurements) which may impact upon the LFC's ability to achieve the best value for money.

The section 43 exemption is a qualified exemption and its use is therefore, subject to a public interest assessment.

Public Interest Assessment

At present, on balance, it is considered that the public interest is best served if the information is not disclosed at this point. Disclosure by the LFC would be likely to have a detrimental effect on the commercial interest of LFC and its ability to secure value for money on behalf of the public.

The eligibility of these exemptions should be reassessed in the event of an FOI request for this information as the level of sensitivity will change over time and different circumstances may alter the arguments in favour of non-disclosure.

Information Governance Adviser - I make the above recommendations that this information should be considered confidential at this time

Name: Robyn Lawrance

Date: 05/03/2019

Confidential decision and/or advice:

See Appendix A of report LFC-0096.