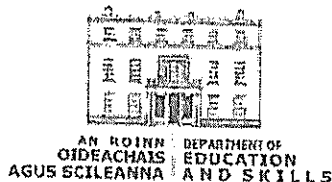


An Roinn Oideachais agus Scileanna
Bóthar Phort Laoise
An Tulach Mhór
Co. Uíbh Fhailí
R35 Y2N5



Department of Education and Skills
Portlaoise Road
Tullamore
Co. Offaly
R35 Y2N5

12th February 2018

[REDACTED]
Journalist
[REDACTED]
[REDACTED]
[REDACTED]

Re: FOI request 2018/21

I refer to the request which you made under the Freedom of Information Act 2014 for records held by this body:

My request relates to a public procurement procedure completed by your organisation. Specifically, my request relates to a tender awarded to JJ Rhatigan for the redevelopment of Scoil Phobail Community School, Clifden, Galway.

I seek:

- *A copy of the successful bid documents related to the above referenced tender and the supplementary tenders submitted in 2016.*
- *A copy of the unsuccessful bids – in the case of unsuccessful bids I am happy to have the identity of the bidders redacted.*
- *A copy of the bid evaluation report or memo.*
- *A copy of the Construction waste management plan for the project.*
- *A copy of the contract with the successful bidder.*
- *Details of all change requests, approvals and payments made as part of the tender.*
- *Any correspondence in relation to the management and implementation of the Construction waste management plan.*
- *The details of all sums paid to the successful bidder as part of the tender or subsequent related work.*

I, Kathryn Scott, Executive Officer have now made a final decision to refuse your request on 12th February 2018.

The purpose of this letter is to explain that decision. This explanation has the following parts:

1. an explanation of the relevant findings concerning the records to which access is denied, and
2. a statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these parts in turn.

1. Findings, particulars and reasons for decisions to deny access

The sections of the Act which can apply to deny access to documents are known as its exemption provisions.

Under the provisions of section 36(1) of the FOI Act 2014 – *Commercially Sensitive information*, a request shall be refused if it contains:

- Trade secrets
- Financial, commercial or other types of information that could 'reasonably be expected to' prejudice competitive position
- Disclosure could prejudice the conduct or outcome of contractual or other negotiations

I consider that the records concerned are exempt under section 36 (1)(b) that disclosure at this time could reasonably be expected to result in financial loss or could potentially prejudice the competitive position of the person concerned.

Under FOI, records are released without any restriction as to how they may be used and, thus, FOI release is regarded, in effect, as release to the world at large. Whilst there is a public interest in openness, transparency and accountability of public bodies, there is a legitimate public interest in persons being able to conduct commercial transactions with public bodies without fear of suffering commercially as a result.

Section 36(1)(b) is a mandatory exemption that must be applied to certain types of information whose disclosure could reasonably be expected to result in material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of the person in the conduct of his or her profession or business or otherwise in his or her occupation. The essence of the test in section 36(1)(b) is not the nature of the information but the nature of the harm which might be caused by its release.

Under the provisions of section 36(3), the above does not apply if, on balance, the public interest would be better served by granting than by refusing the FOI request. As the Decision Maker I consider that release of the information is of no benefit to the public at this time.

2. Right of appeal

You may appeal this decision. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Department of Education and Skills, Marlborough Street, Dublin D01 RC96 or email foi@education.gov.ie

Your correspondence should include a fee of €30 for processing the appeal. Payment should be made by way of personal cheque or postal money order made payable to the accountant in the Department of Education and Skills. Please note the Department of Education and Skills no longer accept cheque payments from business users. For

further information regarding payment methods for business users, please email foi@education.gov.ie

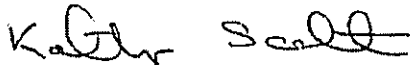
You should make your appeal within 4 weeks from the date of this notification, where a day is defined as a working day excluding, the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

Publication

All non-personal FOI requests will be recorded on an FOI disclosure log which will be published on the Department of Education and Skills website in due course.

Should you wish to discuss the above, please contact me by telephone at 057 9325385.

Yours sincerely,



Kathryn Scott
Executive Officer