

CITY OF
WOLVERHAMPTON
C O U N C I L

Response to Request for Information

Reference FOI 000643
Date 28 November 2016

Tender Submission - Odgers

Request:

We are keen to develop a better understanding on how the decision was reached, could you please provide a copy of the winning tender submission from Odgers (under the Freedom of Information Act)?

The Council considers that the information you have requested, which we have identified above, is exempt from disclosure under Section 43 of the Freedom of Information Act. Section 43 of the Act permits the Council to withhold information if its disclosure would, or would be likely to, prejudice the commercial interests of any person, including the public authority holding it.

We should explain that, under Section 43 of the Freedom of Information Act 2000, the Council considers that to disclose the information you have requested, at this stage, would prejudice the commercial interests of the parties mentioned above and this information is therefore exempt from disclosure.

This information is commercially sensitive to the tenderers and it is important to their competitiveness that they are able to remain as a participant in the market. When considering public interest for and against disclosure of this requested information, the Council considers that the public interest in withholding the information from disclosure to the wider world outweighs the public interest in disclosure. The reason for this is by releasing the information it would be potentially damaging to the business of the supplier to share their pricing with third parties and would likely prejudice the commercial interest of the parties concerned. The Council considers that it would not be in the public interest to release this information as it is likely to be damaging to the business of the supplier. It might also have a negative impact on fair competition in future tender processes and that it is not common knowledge and would likely be used by competitors in a particular market to gain a competitive advantage. The Council also considers that disclosure of such information would be damaging to the Council's commercial interest as it would be likely to:

- (a) discourage companies/individuals from providing the Council with commercially sensitive information in the future or undertaking contracts with the Council;
- (b) adversely affect the Council's bargaining position during future contractual negotiations.

In applying the public interest test the Council gave careful consideration to the

arguments for and against disclosure. When considering factors which would favour disclosing the information, the Council had to assess whether disclosure of the information would:

- Allow for more informed debate on the issue;
- Promote accountability and transparency for our decisions and in our spending of public money; and
- Assist the public to understand and challenge our decisions.

Against these considerations the Council had to balance the likelihood of disclosure having an adverse affect on the commercial interest of the tenderers concerned and the Council itself.

Having taken into account the arguments for and against disclosure, the Council decided that the public interest in this case is best served by maintaining the exemption and by not disclosing the information requested, at this stage. The Council considers that the possible benefits of disclosure are outweighed by the real risk of causing prejudice to the commercial interests of the tenderers concerned and the Council itself. In this case there is an overriding public interest in ensuring that companies are able to compete fairly and in ensuring there is competition for public sector contracts.