From: [removed] On Behalf Of Freedom of Information
Sent: 06 July 2021 14:32
To: Freedom of Information Response (Our Ref: K/21/300)
Subject: Freedom of Information Response (Our Ref: K/21/300)

Dear

Freedom of Information Response (Our Ref: K/21/300)

Thank you for your Freedom of Information (FOI) request dated 8 June 2021, reference K/21/300.

Your request read:

“I am writing to make an open government request for all the information to which I am entitled under the Freedom of Information Act 2000, for the following tender:
· Notice Identifier: BIP537843411
· Awarded by: University of Leeds
· Tender Title: 300 - Dynamic Field Camera for MRI Scanner
Please could you kindly provide me with the information for this tender:
1. What are the full names of all those that tendered?
2. What is the full name of the organisation, which won the tender?
3. I would like a full copy of the tender document from the winner?
4. I would like the reasons for selecting this winning tender, compared to other applicants?
I would like the above information to be provided to me as electronic copies or an opportunity to view.”

The University of Leeds holds some of this information.

1. **What are the full names of all those that tendered?**
The names of the companies who bid on this tender are as follows (in no particular order): FEI UK Ltd, Ametek (GB) T/A GATAN UK, and Oxford Instruments Nanotechnology Tools Ltd T/A Oxford Instruments NanoAnalysis

2. **What is the full name of the organisation which won the tender?**
FEI UK Ltd.

3. **A fully copy of the tender document from the winner**
The University does hold all the relevant tender documentation provided to the organisations during the tender process. However, we consider that the detail of these contracts is commercially sensitive, and is therefore exempt from disclosure under section 43(2) of the FOI Act.

Section 43(2) sets out that information can be withheld if disclosure would, or would be likely to, prejudice the commercial interests of any person or organisation, unless there is an overwhelming public interest in disclosure. We have set out our considerations below.

We consider that to release details of the tender, which also includes information on suppliers’ technology and price offering, would provide competitor organisations with valuable information regarding the bidding organisations and tender which would not ordinarily be available. There are two likely effects of disclosure. Firstly, to release details of the tender would provide competitor organisations with an unfair advantage in future tendering processes as
they now hold a copy of the University’s criteria for tenders that other potential competitors cannot appreciate. This outcome negatively impacts the University as we run the risk of engaging an organisation not based on merit or economic valuation, but because the organisation holds a knowledge-based advantage over other competitors that is not ordinarily available. Secondly, to release details surrounding the suppliers would enable competitor organisations to adapt their own pricing structures in order to deliberately undercut the incumbent suppliers in the future. This would significantly prejudice the bidding organisations by providing their competitors with a commercial advantage in future tender processes, therefore harming their market position. This, in turn, would be likely to damage relationships between the University and suppliers, dissuading the same suppliers from working with the University again in the future. On a similar note, releasing details on the winning bid may also dissuade potential suppliers in the future from working with the University if they are aware we have released an organisation’s commercially sensitive information. Any damage to working relationships between the University and its existing (or future) agents carries a risk that a contract will not be renewed or engaged, and the University will lose out commercially as a result. We are therefore satisfied that the disclosure of this information would be likely to prejudice the commercial interests of both the University of Leeds and the bidding organisations.

We have therefore gone on to consider whether there is any public interest in the disclosure of this information, and if so, whether it is sufficient to outweigh the prejudice which would be likely to occur.

Artificial price deflation does not necessarily represent improved value for money. It is essential that the University is able to procure services based on their genuine value, rather than on prices which have been manipulated in order to undercut existing suppliers. Similarly, it is important that we are able to tender for services from a broad range of suppliers, and do not take action which would unduly limit that pool. To limit the number of suppliers who are willing and able to participate in tender processes would reduce our ability to secure the best value for money. Disclosure of the information would therefore be likely to result in increased costs to the University. This would not be in the public interest.

We are therefore satisfied that the public interest is in favour of maintaining the exemption and withholding the tender information.

4. The reasoning for selecting the winning tender

The evaluation of the tenders was set out according to the award criteria published in the tender document pack, and further reiterated in the contract award notice. Generally, the most economically advantageous tender was determined by the cost per quality point ratio. Please note that publishing further details of the tender evaluation will risk publishing sensitive data on the bidding organisations, and is therefore exempt under section 43(2) for the same reasoning outlined in our response to question three.

We hope this information is helpful. If you have any questions about this email, however, please do not hesitate to contact us on foi@leeds.ac.uk

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request a review of our decision, you can request an Internal Review. Requests for Internal Review should be made in writing using the following contact information:

Post: Mr D Wardle
Deputy Secretary
Requests for Internal Review should be submitted within 40 working days of receiving the University’s response to your request. Further information about how the University manages Freedom of Information requests and about our complaints procedure is also available on our website (www.leeds.ac.uk).

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. Generally, the ICO cannot make a decision unless you have exhausted the review/complaints procedure provided by the University. The Information Commissioner can be contacted at: Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,