



[REDACTED]

26 May 2023

Dear [REDACTED]

**Freedom of Information request: FOI2023/00259**

Thank you for your Freedom of Information request received on the 4 May in which you requested the following:

**Your request:**

*I am writing to you under the Freedom of Information Act 2000 to request information on the procurement of ground mounted solar PV systems.*

*This was conducted through Delta E-Sourcing portal under Reference number: UKRI-1060, titled: Supply, Installation and Commissioning of Multiple Solar Photovoltaic Systems (Ground Mounted)*

*I would like to request the following information:*

- 1. Copy of successful tender.*
- 2. Final pricing of successful bidder.*
- 3. How many bidders submitted responses?*
- 4. Name of all bidders who submitted responses.*
- 5. Rank of all bidders who submitted responses.*

**Our response**

I can confirm that UK Research and Innovation (UKRI) hold information relevant to your request. Please see the information below.

Information in relation to questions 2 and 3 of your request is publicly available in the [award notice](#)<sup>1</sup>. In relation to question 4 the name of the successful bidder is also publicly available at the link provided above. Under Section 21 of the Freedom of Information Act - Information already reasonably accessible, as the information you have requested is already available in the public domain, we have provided the link above. Section 21 is an absolute exemption which means that there is no requirement to conduct a public interest test.

With regard to question 5, there were only 2 bidders who submitted responses.

With regard to question 1 for a copy of the successful tender and question 4 for names of all bidders who submitted responses, we have determined that this information falls under Section 41 of the FOIA, information provided in confidence.

To explain further, companies submit tender proposals in confidence with the expectation that the complete bid information, including their application and the associated documents will be held in confidence. When an application is successful the successful bidder is made aware that only certain parts of the application, such as the final bid price and name of the successful bidder will be put in the public domain. Furthermore, bidders are made aware that where unsuccessful, their information will not be disclosed. If this information were to be released, we believe it

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<sup>1</sup> <https://ukri.delta-esourcing.com/delta/respondToList.html?noticeId=587198265>

would result in an actionable breach of confidentiality. As this exemption is absolute there is no requirement to conduct a public interest test.

We have determined that the copy of the successful tender and name of the unsuccessful bidder also fall under the scope of Section 43(2) of the FOIA. This exemption is used where disclosure would likely result in a person's (an individual, a company, the public authority itself or any other legal entities) commercial interests being prejudiced. This is a qualified exemption, meaning that a test was carried out to determine whether the public interest outweighs the requirement for commercial confidentiality.

### **Public interest in favour of disclosure**

- There is a general public interest in the disclosure of this information to ensure transparency and openness of a public organisation.
- There is also a public interest in transparency in order to ensure the accountability of public organisations and how they spend public funding.

### **Public interest in favour of withholding the information**

- There is a public interest in protecting commercially sensitive information such as tender applications and the names of unsuccessful bidders. This is confidential information and release would prejudice UKRI's capacity to successfully attract companies to participate in any future procurement processes.
- The information requested contains commercially sensitive information such as business and project plans, price and cost schedule information, staff resource analysis, technical and system design and extensive descriptions of the project and the approach proposed, including supply chain and project delivery information all of which were disclosed to UKRI in confidence.
- Releasing such detailed information could be taken advantage of by competitors in planning competing strategies for further business opportunities.
- Releasing information provided in confidence to UKRI is likely to damage the possibility of ongoing relationships with other organisations. Relationships may become untenable if third parties cannot be certain that their commercial information will remain confidential when held by UKRI.
- Breaching the commercial interest may also adversely affect future negotiation opportunities for UKRI. UKRI may be seen as a 'confidentiality' risk if it routinely releases information relating to business arrangements into the public domain, particularly where this is third party information.
- We also considered the impact on UKRI if commercially sensitive information of companies we engage and work closely with were disclosed. We believe it would damage the trust in UKRI and likely impact our ability to carry out our role and manage our current and future investments.

Taking the above arguments into consideration, we reached the decision that the need for commercial confidentiality outweighs the public interest in disclosure; therefore the information is exempt from disclosure.

Information in the tender application related to staff resourcing has been withheld. We consider that this information constitutes personal data and falls under the exemption at section 40(2) of the FOI Act. Section 40(2) exempts personal information such as names of individuals from disclosure if that information relates to someone other than the applicant, and if disclosure of that information would, amongst other things, contravene one of the data protection principles. Disclosing this information would contravene the first Data Protection Principle as defined under Section 86 of the Data Protection Act 2018 and Article 5 of the UK General Data Protection Regulation (UK GDPR). Section 40(2) is an absolute exemption and does not require a public interest test.

If you have any queries regarding our response or you are unhappy with the outcome of your request and wish to seek an internal review of the decision, please contact within the next 40 working days:

Head of Information Governance  
Email: [foi@ukri.org](mailto:foi@ukri.org)

Please quote the reference number above in any future communications.

If you are still not content with the outcome of the internal review, you may apply to refer the matter to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the review procedure provided by UKRI. The Information Commissioner can be contacted at: [www.ico.org.uk](http://www.ico.org.uk).

If you wish to raise a complaint regarding the service you have received or the conduct of any UKRI staff in relation to your request, please see UKRI's complaints policy: <https://www.ukri.org/about-us/policies-and-standards/complaints-policy/>

Yours sincerely,

  
Information Governance  
Information Rights Team  
UK Research and Innovation  
[foi@ukri.org](mailto:foi@ukri.org) | [dataprotection@ukri.org](mailto:dataprotection@ukri.org)