

Public Interest Test

Requested information:

7. Current annual spend for this contract?

8. Current number of licenses for this contract?

Applicable exemption:

Section 43(2) - Commercial interests

Harm

Disclosure of the annual spend and number of licences for our email contract would enable a calculation of the single unit cost. The unit cost is commercially sensitive, as divulging the pricing model of the supplier is likely to cause financial loss to that organisation.

Revealing this information may give competitors an advantage in future tendering processes which would be unfair to the provider of the service. This would undermine the integrity and effectiveness of the tendering process as it may dissuade organisations from submitting tenders or encourage those who do, to compete on price rather than quality. This would reduce the quality of services/products available to the public and for West Midlands Police.

Factors favouring disclosure:

There is a clear public interest in ensuring that public authorities are receiving a fair price and value for money from the suppliers of their services and goods, as it is the public's money that is being spent and they have a right to expect that it would be used wisely. Disclosure of the requested information would provide transparency around the amount we pay for the provision of our email service, and this might go some way to reassuring the public that their money is being spent efficiently and responsibly.

Factors favouring non-disclosure:

Disclosure of commercial information such as unit cost will adversely affect the interests of the company involved. There are numerous potential suppliers for this service, therefore a contractor would have a weakened position in a competitive environment if market sensitive information were released, or information of potential usefulness to its competitors were to be likewise released. This could also distort prices to the detriment of West Midlands Police.

Disclosure of the exempt information may cause a breach of the confidences surrounding the current contracts. There is a risk that disclosure could leave this authority at risk of civil proceedings via an actionable breach of confidence.

Balancing Test

For a public interest test, factors favouring disclosure [of the requested information] must be weighed against factors favouring non-disclosure. It is important to note though that 'Public interest' is not what might interest the public or a particular individual, but what would be for the greater good if released into the public domain.

In this case, this means weighing the right of the public to know how public funds are being spent, against the commercial damage that could be caused to our suppliers, as well as our

business reputation or confidence in which it is held by those suppliers. The information, if placed into the public domain, would give an advantage to competitors in any future tendering exercise. It is in the public interest to ensure that companies are able to compete fairly for public sector contracts.

The accountability of how public funds are spent will always be a strong argument. However, this is offset by the fact that the authority is already subject to a financial audit and is therefore already held accountable for the money that it spends. This process will not be enhanced by a disclosure under the Freedom of Information Act.

When analysing the impact of commercial harm, the number of competitors will always be a factor. The fact that there are numerous suppliers in the marketplace for Public Service Contracts means that there is clear evidence that the tender process will always attract competitive quotes. This means that the public will get good value for money, which is further guaranteed by the fact that the police service uses tried and tested procurement processes, which again are not enhanced by the disclosure of this information.

Therefore, after consideration of the factors above, it is my opinion that the arguments for disclosure of the information, do not outweigh the arguments for non-disclosure and the public interest favours non-disclosure of the annual spend and number of licenses for this particular contract.