



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

FREEDOM OF INFORMATION REQUEST



Request Number: F-2009-03075

Keyword: Finance

Subject: ARMOURING CONTRACTS

Request and Answer:

Question 1

Can someone confirm how much a 2005 court case cost the PSNI in legal costs?

It was a High Court case taken that year by NI Sheet Metal Works Ltd. They sued police over the failure to award a contract for armouring.

Answer

Police Service of Northern Ireland Legal Services branch have advised that the legal cost of 2005 court case taken by NI Sheet Metal Works Ltd is £337,221.15

Question 2

Can I get confirmation of the tender offer they offered that year?

Question 3

And confirmation that their offer was £350,000 less than that of Firth Rixton Casting Ltd?

Answer 2 and 3

I have today decided to:

- fully exempt records in answer to questions numbered 2 and 3 pursuant to the provisions of Section 43(2) of the Act.

Section 17 of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which:

- (a) states that fact,
- (b) specifies the exemption in question and
- (c) states (if not otherwise apparent) why the exemption applies

The exemption, as well as the factors the PSNI considered when deciding where the public interest lies, with regard to questions 2 and 3 are listed below :

Harm and Public Interest Considerations

Section 43(2), Commercial Interests.

This is a prejudice based exemption, which means that the public authority must demonstrate that it is satisfied that to release the information would damage someone's commercial interests. It is also a qualified exemption, which means that the public authority must consider the balance of the public interest in releasing the information against the public

interest in withholding it.

Contracts are awarded following a procurement process in which tenders are invited from interested parties. As one means of ensuring fairness in the process, each party does not know the details of any of the other parties tenders. To release the details of the tender of any party would harm any current/future tendering processes conducted by the PSNI as persons tendering would do so on the belief that their particular details would not be made public thus giving other persons an advantage.

Factors Favouring Disclosure

Figures with regard to this contract have been quoted in the press however regardless of the actual figures/details of the contract, public money will be spent and there is bound to be a public interest in ensuring that the money is spent correctly and that the PSNI, and therefore the tax payer gets value for money.

Where a tendering process is undertaken by any organisation, it naturally follows that there will be a decision at the end of it as to who the contract should be awarded to. There is an obvious public interest that whatever decision is made, not only that it is the correct decision but also that it is made for the right reasons and that the PSNI are getting value for money when purchasing goods and services.

Again where a significant sum of money is to be spent by a public authority, there is a public interest in ensuring that all public officials involved in the process have acted with honesty and with integrity and that their actions have not been influenced by any factors which should not be taken into consideration.

Factors Favouring Non-Disclosure

Disclosure of pricing information would make it less likely that companies or individuals would provide the PSNI with commercially sensitive information in the future and consequently undermine the ability of the PSNI to fulfil one of its roles of running fair tender competitions.

Companies compete by offering something different from their rivals and any difference will often be reflected in their price. This may also relate to the quality or specification of the product they offer. Information identifying this unique element is likely to be commercially sensitive and may also inadvertently reveal information about profit margins.

The PSNI's commercial interests would be prejudiced if it released details of customers tenders as disclosure of these would be likely to damage the PSNI business reputation and possibly the confidence that future customers, suppliers may have in it.

Balancing Test

There are factors which in general terms favour release of this information, however on the face of it, there does not appear to be anything contained in the data which make any of these factors more specifically relevant. Release of details about pricing of tenders would not be in the public interest as it would, without doubt harm the process of future tenders as prospective customers would expect to be involved in these on a level playing field with no advantage given to others. If prospective customers believed that there was not going to be a level playing field they may decide not to enter a tender thus possibly cutting back on the number of tenders and meaning the PSNI may have to accept a higher tender which would not necessarily be value for money for the public in general. The likelihood of this happening is impossible to determine, but it would be fair to say that it is more than a remote possibility. No release of information should be made under FOI that will give one person a commercial advantage over another and the exemption under S43 (2) of the Act caters for this situation. My decision, therefore is not to release answers to questions 2 and 3 at this time

Question 4

The court apparently awarded damages of £400,000 to NI Sheet Metal Works - can I have that confirmed?

Answer

For your information I can confirm this case did not result in a court award rather the case was settled in the sum of £400,000

Question 5

And can I get confirmation that legal costs on top of this were another £375,000?

Answer

As per answer to Question 1 above the legal cost of 2005 court case is £337,221.15

Question 6

Another question related to this is:

Who now has the contract for armouring with the PSNI?

Answer

Procurement Unit has advised that there is no current contract for the armouring of vehicles

Question 7

Who has armoured the PSNI since 2005?

Answer

Procurement Unit have advised that in 2006 Hobson Industries armoured for the PSNI

Question 8

And how much was paid to the companies each year?

Answer

I have been advised that £163,900 was paid in 2006 and there has been no expenditure in 07 and 08.

Question 9

What exactly does the costing cover?

Answer

I have been advised this covers fitting vehicle protection, upgrading and re-armouring to the vehicles supplied to them.

If you have any queries regarding your request or the decision please do not hesitate to contact me on 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this email.

If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible, or in any case within two months of the date of issue of this letter. In the event that you require a review to be undertaken, you can do so by writing to the Head of Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing foi@psni.pnn.police.uk

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out, however the Commissioner has the option to investigate the matter at his discretion.

Please be advised that PSNI replies under Freedom of Information may be released into the public domain via our website @ www.psni.police.uk

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.