



**CAMBRIDGESHIRE
& PETERBOROUGH**
COMBINED AUTHORITY

Cambridgeshire & Peterborough Combined Authority
Pathfinder House
St Marys Street, Huntingdon
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Freedom of Information Request – CA379

With reference to your request received on 13 January 2024 reference CA379 please find the response provided below.

Question:

On 8th January 2025, the Mayor made a statement to say that an operator had "withdrawn" winning bus tenders from the Tiger bus procurement process.

The operator the Mayor was referring to self identified themselves as Stagecoach

As this must have been done via a procurement portal, can you provide the written evidence that Stagecoach withdrew winning tenders?

Answer:

The Authority conducted an open tender process for the procurement of the Tiger Routes. The provider attempted to negotiate after the submission of their tenders which is not permitted under the procurement regulations and the process that was used. The Authority requested that they either stood by the tender they submitted or withdraw from the process. Their subsequent actions resulted as being deemed a withdrawal from the process.

Your request for written evidence has been considered. The Combined Authority does hold the information you have requested but this has been classified as commercially sensitive and disclosure of the information would severely prejudice the commercial interests of the company. Disclosure has not been granted on the grounds set out in Section 43 of the 2000 Act.

Section 43(2) of the Freedom of Information Act 2000 ["the Act"] provides that:

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it)

In order for this exemption to be engaged the following criteria must be met:

- *the actual harm which the public authority alleges would, or would be likely to, occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption;*
- *the public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption is designed to protect. Furthermore, the resultant prejudice which is alleged must be real, actual or of substance; and*
- *it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – ie disclosure ‘would be likely’ to result in prejudice or disclosure ‘would’ result in prejudice.*

The guidance explains that:

“would...prejudice” means that prejudice is more probable than not, ie that there is a more than 50% chance of the disclosure causing the prejudice, even though it is not absolutely certain that it would do so. “Would be likely to prejudice” is a lower threshold. It means that there must be more than a hypothetical or remote possibility of prejudice occurring; there must be a real and significant risk of prejudice, even though the probability of prejudice occurring is less than 50%.

And defines “commercial interest” as follows:

“...a commercial interest relates to a person’s ability to participate competitively in a commercial activity, i.e. the purchase and sale of goods or services.”

Section 43(2) is a qualified exemption and is therefore subject to public interest considerations.

It is the Combined Authority’s view that disclosure of the written evidence submitted by the operator would be likely to prejudice the commercial interests of both the Authority and the individual operator in the procurement process, for the reasons given as summarised above.

Were the Authority to disclose the information requested it could affect its ability to contract services at a competitive rate in the future by making potential bidders reluctant to engage with procurement exercises for fear of any commercially sensitive information provided in their bid being disclosed to their competitors. Parties who were well placed to submit competitive bids in future procurement exercises might therefore decide not to do so thereby undermining the Authority’s ability to procure goods and services at competitive rates and prejudicing its commercial interests.

The information requested contains commercially sensitive information about the individual participants’ business models, pricing and methodologies for providing the required service.

The Section 43(2) exemption is therefore engaged. The Combined Authority must therefore consider the balance of public interest in deciding whether to disclose the information.

There is clearly a general public interest in public bodies being open, transparent and accountable particularly in the context of the expenditure of public funds.

However there is also a public interest in public bodies being able to procure goods and services effectively without potential bidders being reluctant to participate for fear of their commercially sensitive information being disclosed to competitors.

On balance the Combined Authority takes the view that the public interest arguments in favour of maintaining the exemption and withholding the information, in particular the arguments about the likely prejudice to both the Authority's and participants' commercial interests, outweigh the public interest arguments in favour of disclosure.

Your request for this information is therefore refused on the basis that the information requested is exempt from disclosure under Section 43 of the Act.

I hope this information is helpful but 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, you should write to us via our contact us email address – contactus@cambridgeshirepeterborough-ca.gov.uk or write a letter to Complaints, Cambridgeshire and Peterborough Combined Authority, the 2nd Floor, Pathfinder House, St Mary's Street, Huntingdon, Cambs PE29 3TN within 40 days of the date of this e-mail.

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. The Information Commissioner can be contacted via their complaints portal [FOI and EIR complaints | ICO](#) or writing to the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Generally, the ICO will not undertake a review or make a decision on a request until the internal review process has been completed.

Yours sincerely



Sue Hall
Data Protection Officer