Kent Community Health
NHS Foundation Trust

Request for information under the Freedom of Information Act – 2020.402
Released – 6 February 2020

Thank you for your email dated 29 January 2020, requesting information regarding contracts.

Please find detailed below a summary of your request, together with our response.

Summary of your request:

I would be most grateful if you would provide me, under the Freedom of Information Act, details in respect to the contract below.

PPM and Reactive Maintenance of Catering, Fridge Freezers and Laundry & Dishwashers

The details we require are:

• Suppliers who applied for inclusion on each framework/contract and were successful & not successful at the PQQ & ITT stages • Actual contract values of each framework/contract (& any sub lots) • Start date & duration of framework • Is there an extension clause in the framework(s)/contract(s) and, if so, the duration of the extension?

Below OJEU procurement completed and awarded December 2017. 3 year contract (expires 3rd December 2020) but with an option to extend for 2 years (2 x 12 month extensions).

Lot 1: Catering Equipment. Suppliers: JC Watson and JLA submitting their bid. JLA being the most economical advantageous submission.

Lot 2 : Fridge/Freezers : J C Watson, JLA, SLR – with JLA being the most economical advantageous submission

Lot 3 : Laundry and Dishwashers – Hughes Trade, J C Watson and JLA – with JLA being the most economical advantageous submission.

Information relating to the value of the contract is considered to be commercially sensitive information that could be beneficial to competitors and is therefore exempt from disclosure under Section 43(2) of the Freedom of Information Act.

Section 43(2) is a qualified and prejudice-based exemption which requires that I provide evidence of harm in disclosure and a public interest test. I have included the relevant part of this exemption and the evidence of harm and public interest test below.

Section 43 – Commercial Interests
(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).

Evidence of Harm
Disclosure of the information requested would be likely to damage the commercial interests of both the Trust and the company providing this service as it would assist competitors in the provision of this service.

Public Interest Test

Factors Favouring Disclosure
The disclosure of the information requested would contribute to the aims of openness and accountability which the Freedom of Information Act promotes. It would also show that there is transparency in the use of public funds and that public money is being used effectively.

Factors Favouring Non-Disclosure
The provision of the information requested would be likely to prejudice the commercial interests of the existing provider and would affect the Trust's bargaining position during contractual negotiations should the contract be retendered, which would result in the less effective use of public money.

To release information relating to the existing provider would weaken their position in a competitive environment by revealing market-sensitive information or information of potential usefulness to competitors.

Balancing Test
Whilst we note that the provision of the information requested would ensure that we remain open and accountable, this is outweighed by the need for the Kent Community Health NHS Foundation Trust to remain competitive with regards to proposed tenders and commercial activity and to protect the commercial interests of companies providing services to us.

I have therefore determined that the public interest in maintaining the exemption at section 43(2) outweighs that in disclosure and, in accordance with section 17(1) of the Act, this information is exempt.

• ***Has a decision been made yet on whether the framework(s)/contract(s) are being either extended or renewed?***

Decision on this will be June 2020

• ***Who is the senior officer (outside of procurement) responsible for this contract?***

It is Trust policy to not release names and contact details of staff below Executive Director Level as this constitutes personal information which is exempt under Section 40(2) in conjunction with Section 40(3A)(a) of the Freedom of Information Act 2000 which relates to 'Personal Information'.

An excerpt of the relevant Freedom of Information legislation can be found below:

Section 40 – Personal information
(2) Any information to which a request for information relates is also exempt information if—
(a) it constitutes personal data which does not fall within subsection (1), and
(b) either the first, second or third condition below is satisfied.
(3a) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act

- *(a) would contravene any of the data protection principles, or*
- *(b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.*

We can advise that the Director with overall responsibility for this contract is Natalie Davies – Corporate Services Director.