



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE and CONSUMERS

Acting Director-General

Brussels, **21 DEC. 2015**
JUST/D(2015)6483020

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By registered letter with acknowledgment of receipt

Dear Sir,

Subject: Your application for access to documents – Ref GestDem No 2015/4509

We refer to your e-mail dated 25/08/2015 in which you make a request for access to documents, registered on 26/08/2015 under the above-mentioned reference number. Please excuse the delay in replying to you.

I. Scope of the request:

Your application concerns the documents which contain information regarding the study on the evaluation of the Brussels IIa Regulation. In particular, you have asked for:

- (1) the reason to contract the study, and who finally made the decision*
- (2) the budgetline of the study,*
- (3) the tender documents of this study (including the user requirements)*
- (4) the evaluation of the tender*
- (5) the work that was delivered*
- (6) who (what person/organisation within the EU commission) guided the 'consultants' during the work*
- (7) who was the project manager at the vendor ? What was the qualification ?*
- (8) who has approved the delivered work*
- (9) where has the delivered work been used*
- (10) the expenses of the study*
- (11) who has made the study*

II. Examination and conclusions

Concerning your request we have identified the following relevant documents which were registered in ARES(2014)5103:

- (1) Terms of reference "Study on the Impact Assessment of the Regulation 2201/2003"
- (2) Proposal submitted by the Evaluation Partnership
- (3) Specific contract implementing the Framework Service Contract
- (4) The evaluation study of the Brussels IIa Regulation.

Following an examination of the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents I have come to the conclusion that they may be partially disclosed. You will find attached (1) the terms of reference prepared by the Commission to request the study on the impact assessment for the Brussels IIa Regulation under the Framework Contract "Impact Assessment for the assignment of the Monitoring and Evaluation of communication activities".

However, the disclosure of (2) the proposal submitted by the contractor in response to the terms of reference and (3) a specific contract signed with the external contractor which contains information with regard to the methodology of their work is prevented by exception to the right of access laid down in Article 4 of this Regulation. The documents which you seek to obtain contain commercially sensitive business information of the company that submitted the offer to carry out the study. Disclosure of that document would undermine the protection of the commercial interests of the company that submitted it, as putting this information in the public domain would affect its competitive position on the market. Therefore the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to this document.

In addition, the documents to which you have requested access contain personal data.

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Union legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data¹.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable².

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you (*who was the project manager at the vendor? What*

¹ OJ L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you (*who was the project manager at the vendor? What was the qualification?*) has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are not disclosing the documents requested as they concern such personal data.

Please note that the evaluation study was published by the Commission and is available at: http://ec.europa.eu/justice/civil/document/index_en.htm.

Finally, please be informed that the contractor, the Evaluation Partnership, was remunerated an amount of EUR 355,400 from budget line 33 03 05 of the Commission Implementing Decision concerning the adoption of a financing decision for 2012 in the framework of the Programme "Civil Justice" C(2011) 9468. This decision is available at: http://ec.europa.eu/justice/newsroom/files/jciv_awp_2012_en.pdf.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position. Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/327
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,



Francisco FONSECA MORILLO

Annexes:

- Terms of reference "Study on the Impact Assessment of the Regulation 2201/2003"