



## EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Director-General

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Brussels

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Dear Ms Reda,

**Subject: Your application for access to documents – Ref GestDem No 2017/4422**

We refer to your email from the 27/07/2017 in which you make a request for access to documents, registered on 01/08/2017 under the above mentioned reference number.

You request access to *"Contract Number MARKT/2013/110/B2/ST/OP: all information containing the public tender, the offers received, the selection process and especially all information (by the Commission and by Ecorys) in connection with the contract"*.

We have identified 43 documents that match the scope of your request. The list of these documents is enclosed with this letter. They contain the 7 offers we received for the tender, the evaluations of all the offers, as well as the report by the evaluation board that was in charge of selecting the winner. They also contain the communication between the winning firm, Ecorys, and the Commission. Finally, the files include the final report of the study and various early versions of the report.

Having examined the files requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we inform you that we grant access to 21 of the documents. Some of these documents do contain personal information which has been expunged. In addition, documents 3 to 8 also contain some commercially sensitive information which has been expunged. Therefore, these documents are partially disclosed.

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 Community 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 data.

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

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 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 disclosing the documents requested expunged from this personal data.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to make a confirmatory application requesting the Commission to review this position.

Having examined document 11 and documents 18 to 24, as listed in the document register, we regret to inform you that we cannot grant access to them as disclosure is prevented by exception to the right of access laid down in Art 4(2) first indent. These documents contain sensitive financial information about the contractor and putting this information in the public domain would affect its competitive position on the market. These documents include information that would prejudice the legitimate commercial interests of the bidding firms and might distort fair competition in the future. Therefore the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to these documents. Moreover, the documents in question also include sensitive personal information concerning the members of the project teams, their professional background, experience, achievements and their detailed CVs which need to be protected on the ground of Art 4(1) (b).

We have considered whether partial access could be granted to the document requested. However, this is not considered possible since the documents in question are covered in their entirety by the above-mentioned exception.

According to Regulation (EC) No 1049/2001, an exception to the right of access must be waived if there is an overriding public interest in disclosing the document concerned, which outweighs the interest protected by the exception to the right of access. In this case the Commission has reached that there appears to be no overriding public interest in its disclosure in the sense of the Regulation.

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 5/282  
B-1049 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,



Lowri Evans

Annexes: Document register- 35 documents