

22/08/2024

Re: Freedom of Information request 202417 – Request Part-Grant.

I refer to your request, dated and received on the 27th of June 2024, and extended by this office on the 24th of July 2024, which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by the Land Development Agency (LDA).

1. *Documentation outlining the planned ICT procurements, including hardware, software, maintenance agreements, and related services, scheduled for this year.*
2. *Information on any planned ICT projects or initiatives for the current fiscal year.*
3. *Details on budget allocations earmarked for ICT procurement.*
4. *Timelines associated with the procurement processes.*
5. *Any tender notices or requests for proposals related to ICT procurement, if available.*

I wish to inform you that I have decided to part - grant your request on 22 August 2024.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decisions to deny access.

Details of all parts of your request were provided to the IT and Procurement sections within the LDA to identify records held which were within the scope of your request.

Part 1 – Part-Granted

Details of your request were provided to the relevant section within the LDA to identify any records held which were within the scope “*Documentation outlining the planned ICT procurements, including hardware, software, maintenance agreements, and related services, scheduled for this year*”.

A number of records were identified as being requested by you and this is attached to this decision letter for your information.

A number of these records are being refused under Sections 36(1)(b) & 36(1)(c). Additionally, a number of redactions have also been applied to the attached records under Sections 36(1)(b) & 36(1)(c) and 37(1) of the Act. These refusals and redactions are detailed in the Schedule of Records in **Appendix 1**.

Section 36 states that:

Commercially Sensitive Information

36. (1) Subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains

(b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, or
(c) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.

I am satisfied that the release of certain sensitive information contained within these records would prejudice the competitive position of the LDA, and in the same manner would also be commercially sensitive to Everything IT. This therefore is commercially sensitive in accordance with the provisions of Section 36 of the Act

I am cognisant of the fact that the release of information under the Act is, in essence, a release to the public at large. If the record was made available to you it is reasonable to expect that it would prejudice the outcome of a commercial process undertaken by an FOI body.

I am of the view that the full release of this sensitive record could reasonably be expected to result in a material financial loss to both the Agency as well as Everything IT as it could prejudice their competitive positions in the conduct of their respective business.

Furthermore, releasing this information could prejudice any current or future negotiations by the LDA.

I am refusing the release of parts of the records under the provisions of section 36(1)(b) & 36(1)(c) as they contain commercially sensitive information.

Public Interest Test

There is a Public Interest Test associated with section 36 of the FOI Act whereby my decision must be made having fully considered the harm and public interest relevant to this request. I have considered the public interest issues which arise in your request, and have taken account of the following factors in favour of release:

- Ensuring openness and transparency of organisational functions to the greatest possible extent.
- The public interest in members of the public exercising their rights under the FOI Act.
- That there is more than just a transitory interest by the public in this information being released.
- The right to commercial confidentiality is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records as detailed in your request, I have taken account of the following:

- Allowing a public body to hold commercial information, in this case including appraisals of land, without undue access by members of the public.
- That the LDA is not prevented or impeded from the effective pursuit of its legitimate business.
- That the LDA can conduct its commercial activities with external stakeholders, including private sector entities, in a confidential manner.

- That external companies are allowed to provide the LDA with confidential information without fear of release.

Having balanced the public interest factors both for and against the release, I decided that the public interest in preserving the information and the reasonable expectation that information can be maintained in a confidential manner by the LDA outweighs the public interest which would be served were the detail released to you.

Section 37-Personal Information

Under the FOI Act, records are released without any restriction as to how they may be used and thus, release under the FOI Act, is in effect, and regarded as being released to the world at large. As a result, I am conscious of my obligations to retain personal information in a confidential and secure manner and prevent personal information from being released into the public domain unnecessarily.

Additionally, the LDA as a matter of course redacts the mobile phone numbers and email addresses of employees as these are part of the body's IT security management.

Section 2 of the FOI Act defines personal information as follows:

2. (1) *In this Act*

"personal information" means information about an identifiable individual that, either

(a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or

(b) is held by an FOI body on the understanding that it would be treated by that body as confidential, and, without prejudice to the generality of the foregoing, includes

(iii) information relating to the employment or employment history of the individual,

Section 37(1) provides that a public body shall refuse to grant a request if access to the records concerned would involve the disclosure of personal information. I am satisfied that parts of certain records relate to third parties employed outside of the LDA and I am satisfied that the records consist of personal information.

37. (1) Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual).

As section 37 requires a public interest test be carried out. I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- Ensuring openness and transparency of organisational functions to the greatest possible extent.
- The public interest in members of the public exercising their rights under the FOI Act.
- That there is more than just a transitory interest by the public in this information.
- The right to privacy is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records, I have taken account of the following:

- The public interest is not best served by releasing these records.
- That the Organisation can conduct its business in a confidential manner.
- That there is a reasonable and implied expectation that sensitive personal information will remain confidential.
- That there is no overriding public interest that outweighs the individual's right to privacy.
- Allowing a public body to hold personal information without undue access by members of the public.

Having balanced the public interest factors both for and against the release, I decided that the public interest in preserving the information and the reasonable expectation that information can be maintained in a confidential manner by the LDA outweighs the public interest which would be served were the detail released to you.

Part 2– Refused

Firstly, I must advise that Section 11 of the FOI Act provides for a right to access to records held by FOI bodies. Requests for information are therefore not valid requests under the Act, as opposed to requests for records. FOI bodies are not required under the Act to create records where none exist, and it does not oblige FOI bodies to answer general queries. The Act does not provide a mechanism for answering questions, except to the extent that a question can reasonably be inferred to be a request for records which contain the answer to the question asked or the information sought.

On receipt of your request, “*Information on any planned ICT projects or initiatives for the current fiscal year*” it was concluded that this did not meet the criteria for a valid FOI request under Section 11 subsections (1) and (4) of the Freedom of Information Act.

Access to Records

11 (1) Subject to this Act, every person has a right to and shall, on request, therefore, be offered access to any record held by an FOI body and the right so conferred is referred to in this Act as the right of access.

(4) The records referred to in subsection (1) are—

(a) records created on or after the effective date

Part 3 - Refused

Firstly, I must advise that Section 11 of the FOI Act provides for a right to access to records held by FOI bodies. Requests for information are therefore not valid requests under the Act, as opposed to requests for records. FOI bodies are not required under the Act to create records where none exist, and it does not oblige FOI bodies to answer general queries. The Act does not provide a mechanism for answering questions, except to the extent that a question can reasonably be inferred to be a request for records which contain the answer to the question asked or the information sought.

On receipt of your request “*Details on budget allocations earmarked for ICT procurement*”, it was concluded that this did not meet the criteria for a valid FOI request under Section 11 subsections (1) and (4) of the Freedom of Information Act.

Access to Records

11 (1) Subject to this Act, every person has a right to and shall, on request, therefore, be offered access to any record held by an FOI body and the right so conferred is referred to in this Act as the right of access.

(4) The records referred to in subsection (1) are—

(a) records created on or after the effective date

Part 4 - Refused

Firstly, I must advise that Section 11 of the FOI Act provides for a right to access to records held by FOI bodies. Requests for information are therefore not valid requests under the Act, as opposed to requests for records. FOI bodies are not required under the Act to create records where none exist, and it does not oblige FOI bodies to answer general queries. The Act does not provide a mechanism for answering questions, except to the extent that a question can reasonably be inferred to be a request for records which contain the answer to the question asked or the information sought.

On receipt of your request “*Timelines associated with the procurement processes*”, it was concluded that this did not meet the criteria for a valid FOI request under Section 11 subsections (1) and (4) of the Freedom of Information Act.

Access to Records

11 (1) Subject to this Act, every person has a right to and shall, on request therefore, be offered access to any record held by an FOI body and the right so conferred is referred to in this Act as the right of access.

(4) The records referred to in subsection (1) are—

(a) records created on or after the effective date

However, in the interest of transparency, I can advise that a procurement process is scheduled for Q4 2024 / Q1 2025.

Part 5 - Refused

On receipt your request was forwarded to the relevant sections within the LDA to identify records held which were within the scope of your request, “*Any tender notices or requests for proposals related to ICT procurement, if available*”.

In this regard, I regret to inform you that no such records have been identified as sought by you. Therefore, I must refuse your request as the records sought do not exist and I am doing so pursuant to Section 15(1)(a) of the Act.

Section 15(1)(a) states that:

Refusal on administrative grounds to grant FOI requests

15(1) A head to whom an FOI request is made may refuse to grant the request where-

(a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken,

It should be noted that all documentation for any future ICT procurement will be posted on etenders (www.etenders.gov.ie) as required under the EU Directive 2014/24/EU

2. Right of Appeal

In the event that you are unhappy with this decision you may appeal against it. If you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Land Development Agency, 4th Floor, Ashford House, Tara Street, Dublin 2 or by e-mail to foi@lda.ie.

Please note that a fee applies. This fee has been set at €30 (€10 for a Medical Card holder). Payment should be made by way of bank draft, money order, postal order or personal cheque, and made payable to Head of Finance, Land Development Agency, 4th Floor, Ashford House, Tara Street, Dublin 2.

Payment can be made by electronic means, using the following details:

The Land Development Agency DAC
IE61AIBK93101264101092
BIC: AIBKIE2D

You must ensure that your FOI reference number (**FOI 202417**) is included in the payment details.

You should make your appeal within 4 weeks from the date of this notification, where a day is defined as a working day excluding, the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

Please be advised that the Land Development Agency replies under Freedom of Information may be released into the public domain via our website at lda.ie.

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

Should you have any questions or concerns regarding the above, please contact me by telephone on (01) 9103400.

Yours sincerely,



Monika Szyszko,
Senior Compliance Manager

Appendix 1: Schedule of Records

Requester name:		Request Re:202417			
Page number	Description of document	Deletions	Relevant section of FOI Act	Reasons for deletion	Decision Maker's decision
1-15 15 pages	Record 1 – email thread Apple Chargers	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive	Part-grant
16-41 26 pages	Record 2 email thread RE_ Laptop Strategy-v3	Commercially Sensitive Information Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel	36 37	Commercially Sensitive Information Personal Information	Part-grant
42 1 page	Record 3 email thread separate continuation of Record 2 from email dated February 2 nd 2024 @ 16:27 (9 th page of record 2)	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive	Part-grant
43-44 2 pages	Record 4 email thread separate continuation of Record 2 from email dated February 2 nd 2024 @ 16:27 (9 th page of record 2)	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive	Part-grant
45 1 page	Record 5 email thread separate continuation of Record 2 from email dated February 13 th 2024 @ 17:16 (7 th page of record 2)	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel	37	Personal Information	Part-grant
46 1 page	Record 6 email thread separate continuation of Record 2 from email dated February 19 th 2024 @ 15:52 (6 th page of record 2)	Commercially Sensitive Information Email address and phone numbers of LDA Personnel	36 37	Commercially Sensitive Information Personal Information	Part-grant

		Name, email address and phone number of third party personnel			
47 1 page	Record 7 email thread separate continuation of Record 2 from email dated February 13 th 2024 @ 10:56 (7 th page of record 2)	Commercially Sensitive Information Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel	36 37	Commercially Sensitive Information Personal Information	Part-grant
48 1 page	Record 8 email thread separate continuation of Record 2 from email dated February 28 th 2024 @ 16:33 (2 nd page of record 2)	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel	37	Personal Information	Part-grant
49-50 2 pages	Record 9 email thread separate continuation of Record 2 from email dated February 2 nd 2024 @ 13:28 (9 th page of record 2)	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive Information	Part-grant
51-52 2 pages	Record 10 email thread separate continuation of Record 2 from email dated February 21 st 2024 @ 09:20 (5 th page of record 2)	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive Information	Part-grant
53 1 page	Record 11 email thread separate continuation of Record 2 from email dated February 21 st 2024 @ 09:20 (5 th page of record 2)	Commercially Sensitive Information Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel	36 37	Commercially Sensitive Information Personal Information	Part-grant
54-67 14 pages	Record 12 Email thread Re_ Quotation Request _ Laptop Order May 2024	Commercially Sensitive Information Email address and phone numbers of LDA Personnel	36 37	Commercially Sensitive Information Personal Information	Part-grant

		Name, email address and phone number of third party personnel			
68-71 4 pages	Record 13 Re_ Quotation Request _ Monitor Arms for Cork Office	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive Information	Part-grant
72-77 6 pages	Record 14 Email thread RE_ Quotation Request _ ThinkVision T24i-2L	Commercially Sensitive Information Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel	36 37	Commercially Sensitive Information Personal Information	Part-grant
78 1 page	Record 15 email thread separate continuation of Record 14 from email dated February 29 th 2024 @ 15:34 (5 th page of record 14)	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive Information	Part-grant
79-84 6 pages	Record 16 email thread separate continuation of Record 14 from email dated March 1 st 2024 @ 12:47 (2 nd Page of record)	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive Information	Part-grant
85-95 11 pages	Record 17 Email thread RE_ RE_ Quotation Request _ Keyboard_ Mouse_ Headset	Commercially Sensitive Information Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel	36 37	Commercially Sensitive Information Personal Information	Part-grant
96-97 2 pages	Record 18 separate continuation of Record 17 from email dated January 10 th 2024	Email address and phone numbers of LDA Personnel	37	Personal Information	Part-grant

	@15:13 (3 rd page of record 17)	Name, email address and phone number of third party personnel			
98-114 17 pages	Record 19 Email thread RE_ Samsung Phone Cases	Commercially Sensitive Information Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel	36 37	Commercially Sensitive Information Personal Information	Part-grant
115-117 3 pages	Record 20 Email thread Continuation of Record 19 from email of 7 th May 2024	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive Information	Part-grant
118-120 3 pages	Record 21 Email thread Re_ Samsung S10 phone case	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive Information	Part-grant
121-124 4 pages	Record 22 Email thread Re_ quote request	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive Information	Part-grant
125-130 6 pages	Record 23 Email thread RE_ Surface Laptop Stand	Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel Commercially Sensitive Information	37 36	Personal Information Commercially Sensitive Information	Part-grant

131-134 4 pages	Record 24 Email thread Re tablets	Commercially Sensitive Information Email address and phone numbers of LDA Personnel Name, email address and phone number of third party personnel	36 37	Commercially Sensitive Information Personal Information	Part- grant
135-138 4 pages	Record 25 LDA Laptop strategy v1	Refused in full	Commercially Sensitive Information	36	Refused
139-142 4 pages	Record 26 LDA Laptop strategy v2	Refused in full	Commercially Sensitive Information	36	Refused
143-145 3 pages	Record 27 LDA Laptop strategy v3	Refused in full	Commercially Sensitive Information	36	Refused
146-148 3 pages	Record 28 LDA Laptop strategy V 1 (amended copy of record 25)	Refused in full	Commercially Sensitive Information	36	Refused
149-152 4 pages	Record 29 LDA Laptop strategy V 2 (amended copy of Record 26)	Refused in full	Commercially Sensitive Information	36	Refused
153-154 2 pages	Record 30 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
155-156 2 pages	Record 31 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
157-159 3 pages	Record 32 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
160-161 2 pages	Record 33 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
162-164 3 pages	Record 34 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
165-166 2 pages	Record 35 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
167-168 2 pages	Record 36 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
169-171 3 pages	Record 37 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
172-173 2 pages	Record 38 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
174-175 2 pages	Record 39 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
176-177 2 pages	Record 40 Quotation	Refused in full	Commercially Sensitive Information	36	Refused

178-179 2 pages	Record 41 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
180-181 2 pages	Record 42 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
182-183 pages	Record 43 Quotation	Refused in full	Commercially Sensitive Information	36	Refused
184-185 2 pages	Record 44 Warranties spreadsheet	Refused in full	Commercially Sensitive Information	36	Refused
		Total number of pages			184
		Total number of pages for full release			10
		Total number of pages for partial release			123
		Total number of pages being withheld			51