

An Garda Síochána

Oifig Saoráil Faisnéise
An Garda Síochána
Teach áth Luimnigh
Lárionad Gnó Udáras Forbartha Tionscail
Baile Sheáin
An Uaimh
Contae na Mí
C15 DR90



Freedom of Information Office
An Garda Síochána
Athlumney House
IDA Business Park
Johnstown
Navan
Co Meath
C15 DR90

Teileafón/Tel: (046) 9036350

Bí linn/Join us  

Láithreán Gréasain/Website: www.garda.ie

Ríomh-phoist/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000160-2016 Partially Granted

Dear

I refer to the Freedom of Information Act 2014 (FOI Act) and your submission to An Garda Síochána dated and received on the 25th April 2016.

Part 1(n) of Schedule 1 of the FOI Act states that An Garda Síochána is listed as a partially included agency “*insofar as it relates to administrative records relating to human resources, or finance or procurement matters*”. Therefore, only administrative records that relate to human resources, finance or procurement shall be considered.

I am aware that you have been in contact with a member of my staff with regard to your original FOI request. On the 28th of April 2016 you agreed to reduce the parameters of your request with regard to the number of invoices being sought. Your FOI request has been progressed on that basis.

Your amended request, as agreed with the FOI Office, is shown below:

- 1. I seek the release of all invoices received from Allpro Services for quarter 1 of 2016 only.*
- 2. I also seek the details of any contract that is in place with this company, the nature of the work that it has provided and the authorising officer for payment purposes.*
- 3. I also seek any details of the initial engagement with this company and if there is any document - such as a tender or call for quotes - that explains this.*

I wish to inform you that I have decided to partially grant your request on 26th June 2016.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decisions.

Part 1 of your request sought the following;

- 1. I seek the release of all invoices received from Allpro Services for quarter 1 of 2016 only.*

The details contained in the invoices received by An Garda Síochána from Allpro Services were considered in conjunction with the views which were sought from the Allpro management team on foot of your request.

There are 12 individual invoices received for Quarter 1 of 2016 for Garda Stations in the Limerick and Galway Garda Divisions. The detail contained within these records is commercially sensitive information. The Request for Tender (RFT) relevant to these invoices is available from the eTenders procurement website and identifies in detail the number of hours to be worked and the type of work to be conducted in each Garda Station by Allpro Services. This RFT information cross referenced with the information contained in the invoices can identify the pricing plans provided by Allpro Services when seeking a contract. I am satisfied that the release of financial information at this level could prejudice the competitive position of Allpro Services and is deemed commercially sensitive in accordance with the provisions of section 36 of the FOI Act. It could be argued that some of the material is not of itself particularly sensitive in that certain details such as the company address, which is contained in all invoices, is already available in the public domain. However as this type of detail is in the public domain there is no requirement to provide the information as per section 15(1)(d) of the FOI Act.

The pricing structure of Allpro Services with regard to the services provided to An Garda Síochána is not known to competitors or the public in general and if the records were made available to you it is reasonable to expect that it would prejudice the ability of Allpro Services to compete in other contracts or negotiations in the future. In addition I am of the view that the release of the invoices could reasonably be expected to result in a material financial loss by Allpro services as it could prejudice their competitive position in the conduct of their business. The advertising of these invoices in the public domain could also reasonably be expected to assist competitors by giving them competitive advantage when seeking the same contacts as Allpro Services. In addition the current customers of Allpro Services may become aware of a difference in fees being applied by Allpro Services which could in turn prejudice any current or future negotiations with these customers.

With regard to your request I draw your attention to a recent Office of Information Commissioner decision titled; *Mr X and University College Cork (UCC) (FOI Act 2014) case number: 150444*. This particular case is relevant as the competitive position of a commercial entity was considered under section 36(1)(b) of the FOI Act.

The relevant section and subsections of the FOI Act pertaining to this part of your request are shown below.

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.*

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—*

- (d) *the information is already in the public domain,*

I am refusing part 1 of your request under the provisions of section 36(1)(b) & 36 (1)(c) as it is commercially sensitive information. In addition the non-commercially sensitive information contained in the record is available in the public domain and is not being provided as per section 15(1)(d) of the FOI Act. A Schedule of Records is attached for your information showing the records available at the time of your request.

While it is not possible or prudent to provide the invoices as requested by you I am providing the overall annual fees paid to Allpro Services for years 2013 to March 2016.

***Payments made to Allpro Services in years 2013 to 2016**

Allpro Services	2016	2015	2014	2013
	€36,632	€117,203	€137,234	€151,636

*payments made in each year may not necessarily refer to expenses incurred in that year.

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 public interest relevant to this request.

I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- Accountability of a Public Body with regard to the expenditure of public funds.
- 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 regarding the expenditure of public funds by a public body.

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

- Allowing a public body to hold commercial information without undue access by members of the public.
- The best course of action which is in the public interest with regard to these records.
- That An Garda Síochána can conduct its business with external contractors in a confidential manner.

- That there is a reasonable and implied expectation by contractors that financial information pertaining to services provided will be held in a confidential manner.
- That there is no overriding public interest that outweighs the right to privacy by an individual or in this case the financial activities of a service provider.
- That the provision of overall expenditure figures for Allpro Services meets the needs of the Public Interest in this matter.

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 by An Garda Síochána without prejudicing future financial endeavors by external service providers outweighs the public interest which would be served were the records released to you.

In addition to section 36 and 15 above I am also applying section 35(1)(a) to the release of the information you seek.

The disclosure of invoices containing details of costs that could be beneficial to other business seeking the same contracts would, in my opinion, be a breach of an implied equitable agreement between An Garda Síochána and the commercial entity concerned which, in this case, is Allpro Services. The invoices were provided to An Garda Síochána based on a contract that was agreed prior to An Garda Síochána becoming subject to the FOI Act and as such there is a reasonable expectation that Allpro would consider the records to be given in confidence and treated as confidential.

Any records of this nature are part of a financial agreement between two bodies and are not provided on the basis that the information will be made available publicly to potentially be used by competitors to the detriment, financially or otherwise, of one or both of the parties involved. While it is accepted that the overall costs can be provided to some extent, the publication of expenditure as detailed on the invoices would, in my opinion, be a breach of the confidentiality expected by the external service providers engaging with An Garda Síochána. While full disclosure of all records would clearly enhance transparency around the expenditure of public funds by An Garda Síochána a balance must be struck between the competing interests of confidentiality and the public. There is an implied understanding of confidentiality with Allpro that their competitive rate of fees would be treated as confidential to ensure their competitive position not disadvantaged by entering a contract with An Garda Síochána.

It is likely and reasonable to believe that potential future service providers will reconsider their position when tendering for a contract with An Garda Síochána. The exposure of confidential comparative fees that could prejudice future earnings of potential Tenderers would not only limit the number of companies tendering for contracts with the Garda organisation but also restrict the choice of service providers available when expending public funds.

I am conscious of the fact that once records are disclosed under the provisions of the FOI Act there is no control as to whom the information is shared with. Therefore a release of records under the FOI Act is considered a release to the world in general and not just the individual requesting the information. The publication of invoices will prove to be deterrent when seeking similar information from current and future service providers. It can reasonably be expected that there will be reluctance by commercial entities to supply similar information if they are aware that their invoices will be released under the FOI Act. Therefore I am now also applying section 35(1)(a) of the FOI Act to part 1 of your request

Public Interest Test

There is a Public Interest Test associated with section 35 of the FOI Act whereby my decision must be made having fully considered the public interest relevant to this request.

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 being released.
- The right to commercial confidentiality is outweighed by the needs of the public regarding the expenditure of public funds by a public body.

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

- Allowing a public body to hold commercial information without undue access by members of the public.
- The best course of action which is in the public interest with regard to these records.
- That An Garda Síochána can conduct its business with external contractors in a confidential manner.
- That there is a reasonable and implied expectation by contractors that financial information pertaining to services provided will be held in a confidential manner.
- That there is no overriding public interest that outweighs the right to privacy by an individual or in this case the financial activities of a service provider.

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 An Garda Síochána in the context of its financial dealings with external organisations outweighs the public interest which would be served were the records released to you.

Information obtained in confidence

35. (1) *Subject to this section, a head shall refuse to grant an FOI request if*

- (a) the record concerned contains information given to an FOI body, in confidence and on the understanding that it would be treated by it as confidential (including such information as aforesaid that a person was required by law, or could have been required by the body pursuant to law, to give to the body) and, in the opinion of the head, its disclosure would be likely to prejudice the giving to the body of further similar information from the same person or other persons and it is of importance to the body that such further similar information as aforesaid should continue to be given to the body,*

I am refusing part 1 of your request under the provisions of section 35(1)(a) as the records were provided in confidence.

Part 2 of your request sought the following records;

2. *I also seek the details of any contract that is in place with this company, the nature of the work that it has provided and the authorising officer for payment purposes.*

I have decided to provide you with the information you seek with regard to this part of your request.

It should be noted that there are two contracts with Allpro Services that have expired but are rolling over until the Office of Government Procurement Framework for Commercial Cleaning is in place. This competition is in the late stage of evaluation and the Framework should be in place shortly. Contracts that are on a roll over of month to month basis are as follows:

Cleaning Service for Garda Station in the Ballinasloe Garda District (Galway Garda Division)

The tender was advertised on eTenders on 30/11/2009. There were 13 tender responses. Allpro Services were the preferred bidder and were awarded the contract commencing 12/04/2010. The contract expired on 11/04/2013. The contract was extended to 11/04/2014 and is rolling over from month to month until a new contract is put in place from the Office of Government Procurement Framework. The service was for the general cleaning of Ballinasloe Garda Station in areas such as the Entrance Hall /Reception, Lobbies/Corridors, Offices & Rooms, Kitchen, Dining area, Locker Rooms, Toilets/Shower and cells. The contract was for 7 hours cleaning Monday to Saturday and 2 1/2 hours on Sunday and Public Holidays. This contract is rolling over from month to month until a new contract is put in place from the Office of Government Procurement Framework. An append to the contract was sanctioned on 30/08/2011 for Ballycar, Creggs, Kilconnell and Mountbellew Garda Stations for one clean per week for each of the stations. In 2014 an additional service was required in Tuam Garda Station and quotes were received from 3 companies whereby Allpro was awarded the temporary contract.

Cleaning Service for Henry Street Garda Station & Estuary House in Limerick Garda Divisions.

The tender was advertised on eTenders on 31/01/2010 and closed on 11/02/2010. There were 15 tender responses. Allpro Services were the preferred bidder and were awarded the contract commencing 19/09/2010. The contract expired on 18/09/2013 and was extended to 18/09/2014. This contract is rolling over from month to month until a new contract is put in place from the Office of Government Procurement Framework. The service was for general cleaning of Henry Street Garda Station & Estuary House in areas such as the Entrance Hall /Reception, Lobbies/Corridors, Offices & Rooms, Kitchen, Dining area, Locker Rooms, Toilets/Shower and cells. The contract was for 8 hours cleaning Saturday, Sunday & Public holidays for Henry Street Garda Station and 8 hours cleaning Monday to Friday and 4 hours cleaning Saturday, Sunday & Public holidays at Estuary House.

Cleaning Service for Ennis, Crusheen and Quinn (now closed) Garda Stations (Clare Garda Division).

The tender was advertised on eTenders on 01/12/2009 and closed on 07/01/2010. There were 12 tender responses. Allpro Services were the preferred bidder and were awarded the contract commencing 04/10/2010. The contract expired on 03/10/2013 and rolled over on a month to month basis to 10/03/2014 until a new contract was put in place with a different company following a full procurement exercise. The service was for general cleaning for the Garda Station such as the Entrance Hall /Reception, Lobbies/Corridors, Offices & Rooms, Kitchen, Dining area, Locker Rooms, Toilets/Shower and cells. The contract was for 7.5 hours cleaning Monday to Friday and 2 hours Saturday, Sunday & Public holidays for Ennis Garda Station and 1 hour cleaning per day Monday to Friday for Crusheen and Quin Garda Stations.

Cleaning Service for Shannon Garda Station (Clare Garda Division).

The tender was advertised on eTenders on 01/12/2009 and closed on 07/01/2010. There were 12 tenders. Allpro Services were the preferred bidder and were awarded the contract commencing 04/10/2010. The contract expired on 03/10/2013 and rolled over on a month to month basis to 10/03/2014, until a new contract was put in place with a different company following a full procurement exercise. The service was for general cleaning for the Garda Station such as the Entrance Hall /Reception, Lobbies/Corridors, Offices & Rooms, Kitchen, Dining area, Locker Rooms, Toilets/Shower and cells plus window cleaning. The contract was for 6 hours cleaning Monday to Friday and 2 hours Saturday, Sunday & Public holidays for Shannon Garda Station. Two hours weekly for Sixmilebridge was added to the contract on 23/07/2013.

The authorising officer for payment purposes is the District Officer for each Garda District.

Part 3 of your request sought the following records;

3. *I also seek any details of the initial engagement with this company and if there is any document - such as a tender or call for quotes - that explains this.*

I have decided to provide you with the information you seek with regard to this part of your request. Details of the initial engagement by An Garda Síochána with Allpro Services are contained in various documents that are publicly available via the eTenders website. Detail of these documents can be found on the eTenders website which issued to advertise competitions of this nature.

The following is the reference number on the website to locate the contract notice and the Request for Tender at www.etenders.gov.ie.

Tender Ref on eTenders website	Competition
NOV135715	T.129/2009 - Cleaning Service for Garda Station in the Ballinasloe Garda
JAN138721	T.135/2009 - Cleaning Service for Henry Street Garda Station & Estuary House in Limerick Garda Divisions
DEC135993	T.107/2009 Cleaning Service for Ennis, Crusheen and Quinn Garda Stations
DEC135982	T.106/2009 Cleaning Service for Shannon Garda Stations

2. Right of appeal

In the event that you are not happy with this decision you may seek an Internal Review of the matter by writing to the address below and quoting reference number **F01-000160-2016**.

Freedom of Information Office,
An Garda Síochána,
Athlumney House,
IDA Business Park,
Johnstown,
Navan,
Co. Meath
C15 DR90

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 Accountant, Garda Finance Directorate, Garda Headquarters, Phoenix Park, Dublin 8. Payment can be made by electronic means, using the following details:

Account Name: Garda Síochána Finance Section Public Bank Account

Account Number: 10026896

Sort Code: 900017

IBAN: IE86B0F190001710026896

BIC: BOFIE2D

You must ensure that your FOI reference number is included in the payment details.

You should submit your request for an Internal Review within 4 weeks from the date of this notification. The review will involve a complete reconsideration of the matter by a more senior member of An Garda Síochána and the decision will be communicated to you within 3 weeks. The making of a late appeal may be permitted in appropriate circumstances.

Please be advised that An Garda Síochána replies under Freedom of Information may be released in to the public domain via our website at www.garda.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 at (046) 9036350.

Yours sincerely,

 **SUPERINTENDENT**
HELEN DEELY
FREEDOM OF INFORMATION OFFICER.

28TH JUNE 2016

Page No	Description of document	Deletions	Relevant Section of FOI Acts	Reason for decision	Decision Maker's decision
1	Allpro Services Invoice - January 2016 - addressed to Superintendent's Office, Tuam Garda Station	Invoice January 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse
2	Allpro Services Invoice - January 2016 - addressed to Superintendent's Office, Ballinasloe Garda Station	Invoice January 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse
3	Allpro Services Invoice - January 2016 - addressed to Henry Street Garda Station	Invoice January 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse
4	Allpro Services Invoice -January 2016 - addressed to Salthill Garda Station	Invoice January 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse
5	Allpro Services Invoice -January 2016 - addressed to Superintendent's Office, Ballinasloe Garda Station	Invoice January 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse
6	Allpro Services Invoice -January 2016 - addressed to Superintendent's Office, Ballinasloe Garda Station	Invoice January 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse
7	Allpro Services Invoice -January 2016 - addressed to Henry Street Garda Station	Invoice January 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse
8	Allpro Services Invoice -January 2016 - addressed to Salthill Garda Station	Invoice January 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse
9	Allpro Services Invoice -January 2016 - addressed to Superintendent's Office, Tuam Garda Station	Invoice January 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse
10	Allpro Services Invoice -February 2016 - addressed to Henry Street Garda Station	Invoice February 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse

	Allpro Services Invoice - February 2016 - addressed to Henry Street Garda Station	Invoice February 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse	
11	Allpro Services Invoice - February 2016 - addressed to Superintendent's Office, Tuam	Invoice February 2016	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c)	Information given in confidence, Commercial Sensitivity	Refuse	
12	Garda Station					
		Total number of pages				12
		Total number of pages for full release				0
		Total number of pages for partial release				0
		Total number of pages being withheld				12