

An Garda Síochána

Oifig Saorála Fáisnéise
An Garda Síochána, Teach áth Luimnigh
Lárionad Gnó Udáras Forbartha Tionscail
Baile Sheáin, An Uaimh
Contae na Mí
C15 ND62



Freedom of Information Office
An Garda Síochána, Athlumney House
IDA Business Park
Johnstown, Navan
Co Meath
C15 ND62

Teileafón/Tel: (046) 9036350



Láithreán Gréasain/Website:
www.garda.ie

Ríomh-phoist:/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000309-2023 Request Part-Grant

I refer to your request, dated 27th August 2023 and received on 28th August, 2023 which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by An Garda Síochána. I further refer to the clarification of your request received at this office on 5th September, 2023, accordingly your request has been amended and will commence from this date.

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.

Your amended request seeks:

FINANCE:

- 1. Overall budget of Garda Firearms Stores per year from 2015*
- 2. Overall firearms, ammunition, equipment, and clothing budget of Garda Firearms Training Unit per year from 2015*
- 3. Spend of Firearms Stores budget with Daniel Technologies per year from 2015*
- 4. Spend of An Garda Síochána budget with Daniel Technologies per year from 2015*
- 5. Spend of Firearms Training Unit budget with Daniel Technologies per year from 2015*
- 6. Euro figure of all Subsistence paid to Firearms Stores staff and contractors by year from 2015*

- 7. All disclosed gifts and hospitality received from Daniel Technologies by members of the Firearms Stores*
- 8. All disclosed gifts and hospitality received from Daniel Technologies by members of An Garda Síochána*

An Garda Síochána:
Ag Coinneáil Sábháilte – Keeping People Safe

PROCUREMENT:

9. *All procurement, evaluation, and selection documentation for the current issue Walther P99c DAO tender*
10. *All procurement, evaluation, and selection documentation for the current issued 40mm Launcher tender*
11. *All procurement, evaluation, and selection documentation for the issued H&K MP7 Optic tender*
12. *All procurement, evaluation, and selection documentation for the issued H&K 416 Optic tender*
13. *All procurement, evaluation, and selection documentation for the issued B&T GL06 Optic tender*
14. *All procurement, evaluation, and selection documentation for the issued 5.56mm Suppressor tender*
15. *All procurement, evaluation, and selection documentation for the issued Brolis LP5X tender*
16. *All procurement, evaluation, and selection documentation for the issued Lasermax LMS-UNI visible laser tender*
17. *All procurement, evaluation, and selection documentation for the issued Team Wendy EXFIL Helmet tender*
18. *All procurement, evaluation, and selection documentation for the proposed Walther P99 (full size) DAO tender*
19. *All qualifying criteria documentation for entrants to the Garda 5.56mm Rifle procurement tender (winner H&K 416)*
20. *All qualifying criteria documentation for entrants to the 40mm Launcher procurement tender*

I wish to inform you that I have decided to part-grant your request on the 2nd October 2023.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision

On receipt of your request, a search was conducted in the relevant sections within An Garda Síochána. I have numbered your request for ease of reference.

With regard to parts 1 and 2 of your request, I have been advised that the Garda financial management system does not allocate a specific budget to either Garda Firearms Stores or the Garda Firearms Training Unit. As the records sought do not exist, I am refusing these parts of your request under Section 15(1)(a) of the FOI Act 2014. Section 15(1)(a) of the Act states:

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,*

The records sought in parts 3, 4, and 5 of your request relate to spend with Daniel Technologies. The Firearms Training Unit does not have a specific cost centre within the Garda financial management system. As such it is not possible to ascertain spend associated specifically with the Firearms Training Unit. I must therefore refuse part 5 of your request in accordance with the above mentioned Section 15(1)(a).

The tables below outline the amounts paid to Daniel Technologies from 2015 to August 2023 as sought in parts 3 and 4 of your request.

Expenditure paid in euros to Daniel Technologies and allocated to the Firearms Stores Cost Centre									
2015	2016	2017	2018	2019	2020	2021	2022	2023 (end Aug)	Grand Total
550,532	1,718,747	1,393,066	1,073,817	1,280,241	1,428,833	928,198	458,599	49,403	8,881,437

Expenditure paid in euros to Daniel Technologies by An Garda Síochána*									
2015	2016	2017	2018	2019	2020	2021	2022	2023 (end Aug)	Grand Total
770,384	2,066,860	2,089,650	1,462,987	1,778,957	1,903,666	1,738,251	1,344,398	183,587	13,338,740

*This is all expenditure paid to Daniel Technologies and includes the spend allocated to the Firearms Stores Cost centre as shown above

In part 6 of your request you sought the amount of subsistence paid to firearms stores staff and contractors. An Garda Síochána does not hold records for subsistence payments made to contractors as payment of contractors is a matter for their direct employer. As such records are not held by An Garda Síochána, I am refusing this particular aspect of part 6 of your request in accordance with the above mentioned Section 15(1)(a).

I am also refusing your request for the amount of subsistence paid to Firearms Stores staff. Section 37 of the FOI Act obliges me to prevent release of the personal information of individuals. Section 2 of the Act defines personal information as 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 –

- (ii) information relating to the financial affairs of the individual,
- (iii) information relating to the employment or employment history of the individual

Given the very small number of staff attached to Firearms Stores during the period in question, I am satisfied that the release of amounts paid in subsistence to members of the unit would make personal information in respect of those identifiable individuals publicly known. 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, regarded as being a release to the world at large. As a result, I am obliged to retain personal information in a confidential and secure manner and prevent personal information from being released into the public domain unnecessarily.

I am therefore refusing this aspect of part 6 of your request in accordance with Section 37 of the Act. Section 37(1) provides that a public body shall refuse to grant a request if access to the record concerned would involve the disclosure of personal information. Furthermore, Section 37(7) provides that a public body shall refuse to grant a request if access to the record concerned would, in addition to involving the disclosure of personal information relating to the requester, also involve the disclosure of personal information relating to an individual or individuals other than the requester, commonly referred to as joint personal information.

Section 37(1) and (7) of the FOI Act are as follows:

- 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)

37(7) *Notwithstanding paragraph (a) of subsection (2), a head shall, subject to paragraphs (b) to (e) of that subsection and subsections (5) and (8), refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would, in addition to involving the disclosure of personal information relating to the requester, also involve the disclosure of personal information relating to an individual or individuals other than the requester.*

As per section 37(5) of the FOI Act, 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:

- Allowing a public body to hold personal information without undue access by members of the public,
- 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, as opposed to your own private interest, that outweighs the individual's right to privacy.

A public interest test was carried out when considering the release of this personal information but having balanced the factors both for and against release, I decided that the public interest in preserving the personal information of third parties and the reasonable expectation that such information can be maintained in a confidential manner by An Garda Síochána outweighs the limited public interest which would be served were the records released to you.

In regards to parts 7 and 8 of your request, I can advise you that a registers of gifts, hospitality and sponsorship is maintained and is available on the www.garda.ie website. I have provided the link below for your convenience.

<https://garda.ie/en/about-us/our-departments/human-resources-and-people-development/>

As the records sought in parts 7 and 8 of your request are already in the public domain, I am refusing these parts of your request in accordance with Section 15(1)(d) of the Act. Section 15(1)(d) states:

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.

Parts 9 to 18 inclusive of your request seek “*procurement, evaluation, and selection documentation*” in respect of specific named equipment. In addition, parts 19 and 20 sought “*qualifying criteria documentation*” in respect of two particular procurement tenders. The equipment in question in each of these tender processes was procured by Security & Intelligence Section, the Special Detective Unit, and the Emergency Response Unit. Section 42 of the FOI Act restricts access to records held or created by An Garda Síochána that relate to

Security & Intelligence Section, the Special Detective Unit, and the Emergency Response Unit. The Act does not apply to records relating to these Sections/Units of An Garda Síochána, and no right of access to such records exists.

Section 42 states that:

Restriction of Act

42. *This Act does not apply to—*

(b) a record held or created by the Garda Síochána that relates to any of the following:

- (i) the Emergency Response Unit;*
- (iii) the Special Detective Unit (SDU);*
- (v) the Security and Intelligence Section;*

Section 42 is an absolute exemption which must apply regardless of any public interest which may or may not exist in release. Therefore, in accordance with the requirements of Section 42(b), I must refuse parts 9 – 20 inclusive of your request.

Parts 9 – 18 of your request sought “*evaluation, and selection documentation*” in respect of specific named equipment. Notwithstanding the absolute exemption in Section 42 cited above, for the sake of completeness, I also wish to draw your attention to the provisions of Section 36(1) of the Act in respect of evaluation and selection documentation. These records consist of financial commercial and technical information in respect of individual bidders.

I am satisfied that the release of such financial, commercial and technical information would undoubtedly prejudice the competitive position of these companies by making key sensitive information publically known. As such, this information is commercially sensitive to the companies in question, in accordance with the provisions of Section 36 of the Act. Sections 36(1)(b) and (c) of the FOI Act state:

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 cognisant of the fact that the release of information under the Act is, in essence, a release to the public at large. Financial, commercial and technical information, such as that contained within these records is not known to competitors or the public in general. If the records were made available to you it is reasonable to expect that it would prejudice the ability the companies to compete in other contracts or negotiations in the future as competitors would be aware of substantial amounts of sensitive financial, commercial and technical information.

I am of the view that the release of such information could reasonably be expected to result in a material financial loss by these companies as it could prejudice their competitive position in the conduct of their

business. The placing of this information into the public domain could also reasonably be expected to give a competitive advantage to other companies seeking similar contracts with public bodies.

Notwithstanding the absolute exemption applied under Section 42, I am satisfied that the provisions of Sections 36(1)(b) & 36(1)(c) are also applicable in respect of *evaluation and selection documentation*.

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:

- 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 and the conduct of public procurement.

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 and technical information pertaining to goods 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 supplier.

Having balanced the public interest factors both for and against the release, I am satisfied 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 suppliers outweighs the public interest which would be served were the records released to you. I am further satisfied that the provisions of Section 36(2) do not apply in this instance.

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 **FOI-000309-2023**.

Freedom of Information Office, An Garda Síochána, Athlumney House, IDA Business Park, 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: An Garda Síochána Imprest Account

Account Number: 30000302

Sort Code: 951599

IBAN: IE28DABA95159930000302

BIC: DABAIE2D

You must ensure that your FOI reference number FOI-000309-2023 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,



ASSISTANT PRINCIPAL

PAUL BASSETT

FREEDOM OF INFORMATION OFFICER

2nd **October, 2023.**