**Transparency Agenda – How CCS Approaches Redaction**

1. **Introduction**

The Crown Commercial Service is required by the Government’s Transparency agenda, to make copies of invitations to tender and awarded contracts (including framework agreements) available to the general public, by publishing them on the Contract Finder database. The framework agreement terms and conditions allow us to do this but any information that falls within the scope of an FOI exemption (when it is correctly applied) can be removed (redacted) prior to publication.

This document provides information about the type of information we would look to redact and the FOIA exemptions we would normally seek to rely on. The following link allows you to access the full set of ICO FOI guidance.

<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>

1. **What Information is Eligible for Consideration for Redaction?**

Information contained within the unpopulated version of the framework agreement, which was supplied to you as part of the Invitation to Tender document set, has already been published on Contract Finder. However, information originally supplied by yourselves in your tender submission, and subsequently used to populate your framework agreement, can be considered. Any information provided to complete the Selection Questionnaire will not form part of the set of contractual documents that will be published on Contract Finder.

* 1. **S40 of FOIA Personal Information**

It is our policy to remove all references to individual names and any contact details that are directly linked to an individual, with the exception of clause 46.6.2 (Notices) of the Model Framework (Non ICT) (Goods and \_or Services) v.4.3\_GLD, which supports the narrative included in clause 27.3.3 (Transparency) input primarily for marketing purposes only.

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* 1. **S43 of FOIA Harming of Commercial Interests**

Section 43 of FOIA allows exemption from the statutory right to know if:

1. the information involved is a trade secret; or
2. the release of the information is likely to harm the commercial interests of any person (a “person” may be an individual, a company, a public authority or any other legal entity).
3. Trade Secret

In terms of FOIA, a trade secret is anything that gives you competitive advantage, as a result of both the nature of the information itself AND the actions you have taken to ensure that the information remains secret. The term can have a much wider meaning than just secret formulas but the information must be directly linked to commercial trade.

In considering whether the information is a trade secret we would take into account whether the information is likely to be already known within the general public or business community or, if not likely to be known, the ease with which competitors could work it out for themselves. We would therefore ask that, before you claim information is a trade secret, that you check that it hasn’t already been disclosed on your website, or in your annual accounts or in your marketing literature. What is a trade secret to one part of an organisation can sometimes be a “good news” story to another.

1. Harming of Commercial Interests

This refers to information which, whilst not a trade secret, would still harm your commercial interests if disclosed. Commercial interests refer to your ability to successfully undertake commercial activities. Unlike trade secrets, where it is automatically assumed that disclosure would cause harm, information in this category can only be exempt from disclosure if we can give a clear indication of the nature of the harm that might result and confirm that a direct causal link exists between that harm occurring and the act of disclosing the information. The Information Commissioner prefers the explanation of the nature and extent of the harm to be provided by the party that is likely to suffer it. That is why we ask you to provide justifications whenever you are requesting that text be redacted.

The harm likely to be suffered need not be substantial but neither must it be in any way trivial. When considering the likelihood of harm occurring, it does not need to be a certainty but, at the same time, it needs to be much more than just a remote possibility.

You need to be aware that, even if information does appear to fall within the scope of Section 43, Crown Commercial Procurement Service would still be required to apply a public interest test before making a final decision. The public interest test seeks to determine whether the public interest is best served by disclosure or non -disclosure.

For your information, we would normally consider redacting the following types of information under this exemption before submitting to yourselves:

Pricing

The total value has already been disclosed as part of the OJEU Award Notice. We would, however, redact individual product pricing and any information that would reveal how you constructed your pricing, including margins.

Technical Capability / Pre Existing IPR

We would consider removing any information that might reveal the technical components of the ICT systems /solutions you would rely on or propose to offer, as well as any other example of pre- existing IPR.

Marketing

We would consider removing any information that revealed your marketing strategy, your existing customers and the type of customers you might target in the future.

Security

We would remove any information that could be used to undermine your physical and IT security measures, including those that enable you to recover from a disaster.

Aspects of Performance

We would consider removing any information that identifies the levels of performance / service you provide. For example, response times you offer.

Processes

We are prepared to consider redacting details of internal processes but would first need a clear explanation of how disclosure might harm your commercial interests. In particular, how the choice and sequencing of activities comprising that process (as opposed to the level of quality achieved when carrying out the process) contributes to your competitive advantage.

Commercial Relationships

We would consider removing any information that reveals aspects of your commercial relationships, with either your customers or your sub-contractors or your vendors / partners. If you are wishing to seek further redactions of this type of information, could you please first check that you have not already disclosed it in other places. For example, by adding a vendor’s or customer’s logo to your external website.

**3.0 Requesting Additional Redactions Under Section 43 of FOIA**

Could you please indicate on the document provided at Annex A to this document, any additional information you wish us to consider for redaction. Where the information is contained within a framework schedule holding your completed award questionnaire, could you please identify the exact text within the award questionnaire by highlighting in red any information that you class as a trade secret and highlighting in yellow any information which you believe could harm your commercial interests if disclosed. For each additional redaction you are seeking, could you please provide a brief justification in the appropriate column in the document at Annex A.

[Note to Project Teams: this is just a suggestion for your use. You are free to adopt an alternative method or layout. For example justifications could be inserted alongside relevant text in the redacted copy of the framework agreement. If you do not use Annex A please remove all references to it and amend any instructions in the covering letter and supplier guidance document. ]

 Annex A

| Schedule  | Clause/para | Type of Information to be redacted (or refer to highlighted text in Award Questionnaire)  | Justification for Redaction |
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