



Brussels, 13 March 2025
(OR. en)

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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 04/c/01/25

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 29 January 2025 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 5 March 2025 (Annex 2);
- the confirmatory application dated 12 March 2025 and registered on the same date (Annex 3).

From: **DELETED**

Sent: mercredi 29 janvier 2025 13:44

To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>

Subject: FOI request

Dear Sir or Madam,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting:

1. The service requests / specific contracts within the Framework, their values and who they were awarded.
2. The evaluation summary report showing the bidders, scores and comments for the tender competition.

Regarding this tender:

Contract title: Provision of Support to the General Secretariat of the Council of the European Union in its Digital Communication Activities Reference number: UCA 21/051

A hardcopy is not necessary so please email me a response in electronic format.

Thank you.

DELETED



Council of the European Union

General Secretariat

Directorate-General Communication and Information - COMM

Directorate Information and Outreach

Information Services Unit / Transparency

Head of Unit

Brussels, 5 March 2025

DELETED

Email: **DELETED**

Ref. 25/0284

Request made on: 29.01.2025

Deadline extension: 19.02.2025

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union¹.

Please be informed that a great part of the information which relates to your request and may therefore be of interest to you can be found under the following links:

- A summary of the outcome of procurement procedure 21/051 is contained in the contract aware notice. You may find the said notice here: [522554-2022 - Result - TED \(europa.eu\)](#) .
- The annual value of the specific contracts established under the Framework Contract No 1600001374, as well as 1600001379 and 1600001381, can be found here: [Annual list of contracts - Consilium \(europa.eu\)](#) . For example, for 2023 in particular: [2023 GSC annual information on specific contracts.xlsx \(europa.eu\)](#) .

The following documents have been identified as falling under your request:

- The **Evaluation Report** for procurement procedure 21/051;
- **60 specific contracts** relating to that same procedure (2022--->29/01/2025).

¹ The General Secretariat of the Council has examined your request on the basis of the applicable rules: Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43) and the specific provisions concerning public access to Council documents set out in Annex II to the Council's Rules of Procedure (Council Decision No 2009/937/EU, OJ L 325, 11.12.2009, p. 35).

I regret to inform you that access to the **evaluation report** for procurement procedure 21/051 cannot be given due to the following reasons. This evaluation report contains the list of tenders received, the tenders which are formally in order, an analysis of administrative documents and the minimum requirements, the offered prices, a ranking per price, a ranking per quality, the (combined) final ranking, as well as the recommendation to whom the contract shall be awarded and its total value (including indexation cost). A series of annexes, containing supporting documents relating to elements of the tenders received, complement the information in the evaluation report.

The information contained in this document is commercially sensitive for the tenderers. Its disclosure, even partially, would infringe their commercial interests, possibly resulting in claims against the General Secretariat of the Council, or it would prevent them from tendering in the future. It could be used to distort competition in current and future procedures, as well as to prejudice the legitimate interests of the economic operators that participated in this procedure. The disclosure of this document would therefore undermine the protection of commercial interests of legal persons.

Having examined the context in which this document was drafted and the current state of play on this matter, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in disclosure of the document in question.

Furthermore, this document contains personal data relating to the tenderers and to the evaluators, necessary to conduct the procedure in question. The data protection rules at EU level² provide that when the personal data collected is to be used for a different purpose, including disclosure to the public, a balance needs to be established between the public interest in having access to such data and the legitimate right of individuals to protect their personal data. After carefully considering all the principles related to this request, on balance the General Secretariat has concluded that disclosure of the personal data contained in the document would undermine the protection of privacy and the integrity of the identified individuals.

As a consequence, the General Secretariat has to refuse access to this document³.

We have also looked into the possibility of releasing parts of this document⁴. However, as the exceptions to the right of access applies to their entire content, the General Secretariat is unable to give partial access.

I regret to inform you that access to the **60 specific contracts** for procurement procedure 21/051 cannot be given for the reasons set out here forth. These contracts relate to the provision of support to the Council in its digital communication activities. This includes promotional campaigns,

² Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (OJ L 295 21.11.2018, p. 39).

³ Article 4(2), first indent, and Article 4(1)(b), of Regulation 1049/2001.

⁴ Article 4(6) of Regulation (EC) No 1049/2001.

user research, web design, studies and surveys, license acquisitions, reports and other related services, amongst others, as outlined in the technical specifications. More specifically, the documents contain the description of the good and services purchased, the quantities and total amounts, the delivery dates, and data relating to the contractors and GSC staff.

The information contained in these documents is commercially sensitive for the contractors. Its publication would infringe their commercial interests and could be used by competitors, thus prejudicing the legitimate interests of these contractors. The disclosure of these documents would therefore undermine the protection of commercial interests of legal persons.

Having examined the context in which these documents were drafted and the current state of play on this matter, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in disclosure of these documents.

Furthermore, these documents contain personal data relating to the contractors and to the GSC staff responsible for these contracts. This personal data is necessary for the completeness of these contracts. The data protection rules at EU level⁵ provide that when the personal data collected is to be used for a different purpose, including disclosure to the public, a balance needs to be established between the public interest in having access to such data and the legitimate right of individuals to protect their personal data. After carefully considering all the principles related to this request, on balance the General Secretariat has concluded that disclosure of the personal data contained in these documents would undermine the protection of privacy and the integrity of the identified individuals.

As a consequence, the General Secretariat has to refuse access to these documents⁶.

We have also looked into the possibility of releasing parts of these documents⁷. However, as the exceptions to the right of access applies to their entire content, the General Secretariat is unable to give partial access.

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, you may ask the Council to review this decision within 15 working days of receiving this reply. Should you see the need for such a review, you are invited to indicate the reasons thereof.

Yours sincerely,

Fernando FLORINDO

⁵ Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (OJ L 295 21.11.2018, p. 39).

⁶ Article 4(2), first indent, and Article 4(1)(b), of Regulation 1049/2001.

⁷ Article 4(6) of Regulation (EC) No 1049/2001.

From: **DELETED**

Sent: mercredi 12 mars 2025 16:13

To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>

Subject: Re: Ref. 25/0284

Hello,

Thank you for your email.

I regret to inform you that I cannot agree with the decision you have made regarding the Evaluation Report. I understand that there may be parts of the document that could arouse commercial interest from the bidders, but that does not justify your decision to withhold the document from me. I firmly believe that the fair solution is to provide me with the document, with those parts that could harm the commercial interests of the bidders duly redacted so that they cannot be viewed. I have no doubt that any other decision to deny the delivery of this document would go against my right of access to documents as a citizen of the EU, as enshrined in the Union's treaties.

I look forward to your reply.

Kind regards.