

EIR Request (received 24 June 2019) - Reference: DFI/2019-0236

Information relating to the operation of Environmental Maintenance Term Contract 2012 - 2019, Western Division.

This is a request under Environmental Information Regulations 2004 (EIRs) part S for information regarding the above contract works using the EIRs Part I -

Application 3. - (1) Subject to paragraphs (3) and (4), these Regulations apply to public authorities. (2) For the purposes of these Regulations, environmental information is held by a public authority if the information - (a) is in the authority's possession and has been produced or received by the authority; or (b) is held by another person on behalf of the authority.

The information requested is as follows:

1. Provide the name of the principal contractor for the works operating in the Contract from 2012 to this date 2019.
2. Provide the name of any sub-contractor operating **weed-control operations** within the contract on behalf of the principal contractor and the record of all weed control applications as recorded within the section office.
3. Provide the name of any sub-contractor operating **urban or rural grass-cutting** works within the contract on behalf of the principal contractor and the number of cuts provided.
4. Provide the name of any sub-contractor operating **gully emptying operations** within the contract on behalf of the principal contractor.
5. Provide the name of any sub-contractor operating **tree/hedge cutting operations** within the contract on behalf of the principal contractor.
6. Provide the name of any sub-contractor providing weed-control for the purpose of operations specific to **Japanese Knotweed**.
7. Full disclosure of the amounts paid to the principle contractor for the above specific five 'highlighted works/operations' within financial years 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019 to date.
8. Provide the names of all contractors used for the five 'highlighted works/operations' within the section area, which have been contracted outside the scope of the above contract for years 2012 to this date 2019 and thereafter the subsequent amount paid annually for each operation.

Response (issued 06 September 2019)

I refer to a number of Freedom of Information requests which you have submitted seeking information in relation to environmental maintenance within DFI's Western Division i.e. Londonderry and Strabane, Mid Ulster, Fermanagh and Omagh. As stated in my letter to you of 22 July 2019 these requests are being treated as one request and this letter provides a composite response for DFI Roads Western Division.

Firstly, please accept my apologies for the lateness of this response. Unfortunately it took considerable longer to collate the information than I had initially anticipated.

In considering your request on behalf of the Department I have determined that the information requested falls under the aegis of the Environmental Information Regulations 2004 (EIR), as opposed to Freedom of Information Act 2000. Your request is for information that relates to activities, policies or plans that affect the environment. Section 39 of the Freedom of Information Act specifically excludes from consideration under that Act requests for what is deemed to be environmental information.

A guide explaining the Environmental Information Regulations can be found at:

<https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/what-are-the-eir/>.

The attached tables (one for each Section Office area) provide details of the information which is available/held by the Department and includes:

1. The names of the Principal Contractors who held the various contracts during the period 2012 until 2019.
2. The names of any sub-contractors that are known by the Department to have undertaken weed control operations on behalf of the Principal Contractor.

Please note that DFI Roads operate a 100% weed free environment and a record of individual weed control applications is not held. Environmental Maintenance Contractors within Western Division confirm completion of the weed control schedule after the first treatment application for part payment. Records of any additional applications, which may be required to deal with residual weeds and remedial weed treatment, are not kept by the Section Offices but done on an *ad-hoc* re-active basis identified through routine cyclical inspections or complaints from members of the public/elected representatives.

3. The names of any sub-contractors that are known by the Department to have undertaken urban or rural grass cutting operations on behalf of the Principal Contractor.

In terms of the number of cuts provided, the Department applies the same policy across all Divisions. Due to budget pressures in recent years the number of cuts undertaken has changed on a number of occasions. In some cases the Environmental Maintenance Contractor has undertaken either single, multiple cuts or partial cuts depending on not only the Department's policy but also the capacity of the Department's internal contractor that also undertakes grass cutting. The Department pays the contractor for the area or kilometres of grass cut and not by frequency of cutting. In some cases the cutting is undertaken by a combination of the Principal Contractor and some by sub-contractor but we don't differentiate who actually undertook the work. In some cases urban grass cutting is undertaken by District Councils. For these reasons, it is not possible to identify the number of cuts undertaken annually by any particular sub-contractor.

4. The names of any sub-contractors that are known by the Department to have undertaken gully emptying operations on behalf of the Principal Contractor.
5. The names of any sub-contractors that are known by the Department to have undertaken tree/hedge cutting operations on behalf of the Principal Contractor.
6. To the best of the Department's knowledge any treatment of Japanese Knotweed or other invasive species was undertaken by the Principal Contractor or sub-contractor identified for 'normal' weed control operations.
7. Details of the amounts paid to the Principal Contractor for the above operations under previous Environmental Maintenance Contracts that have ended.

Please note, as EIR relates to public rights of access to information, the Department is obliged to consider whether information is suitable for release to the general public, and not solely to the applicant. I have carried out a public interest test, to determine whether the information you have requested is suitable for release to the public. I regret to inform you that, in accordance with Regulation 12(5)(e): confidentiality of commercial or industrial information, the Department is unable to comply fully with your request for information relating to payments made for specified activities under the Environmental Maintenance Term Contracts. I am satisfied that, if disclosed, the detail requested would harm the legitimate economic interests of both the Department and third parties, by placing commercially confidential rates information into the public domain. I am satisfied that the public interest is best served by not providing the breakdown that you had requested.

In order to comply with this restriction the amounts specified for 'live contracts' as paid are for the annual Contract Value and not per Contract Activity.

8. The only environmental 'work' that has been contracted outside the listed contracts was during 2013 when £100,113.72 was paid to Patrick Bradley Limited. This work was undertaken through the Department's Small Scale and Responsive Works Contract. This work was for tree cutting/maintenance. You may wish to note that the Department's internal workforce also undertakes the above activities apart from weed control operations.

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