



MINISTRY OF EDUCATION
GENERAL ADMINISTRATION
P. O. BOX M 45, ACCRA
RECEIVED

**THE RIGHT TO INFORMATION COMMISSION
ACCRA
12TH MARCH, 2025**

AFR NO: RTIC/AFR/11/2024

**CENTRE FOR DEMOCRATIC EMPOWERMENT
ACCRA
AND**

APPLICANT

**MINISTRY OF EDUCATION
ACCRA**

RESPONDENT

**DETERMINATION BY THE RIGHT TO INFORMATION COMMISSION IN RESPECT
OF AN APPLICATION FOR REVIEW FILED BY CENTRE FOR DEMOCRATIC
EMPOWERMENT AGAINST THE MINISTRY OF EDUCATION'S REFUSAL TO
RELEASE INFORMATION REQUESTED BY ERNEST DANNSA APPIAH**

On 9th October, 2024, the Centre for Democratic Empowerment, acting through Mr. Ernest Dansah Appiah (hereinafter called "the Applicant"), requested for information from the Ministry of Education (hereinafter called "the Respondent") but received no response to the request.

The Applicant sought the following information:

- a. Public Procurement Authority Approval Letters for the use of Single Source Procurement method in respect of attached list of contract details.*
- b. Statutory mandatory documents such as SSNIT Clearance Certificate and PPA license submitted by contractors in respect of attached list of contracts details.*



P. O. Box YK 1179
Kanda – Accra
rticommission@rtic.gov.gh
+233 3027 88412/ +233 3027 88410

The Respondent, in a letter dated 21st October, 2024, referenced section 20(1) (b) and (c) of the Right to Information Act, 2019 (Act 989) to refer the Applicant to the Public Procurement Authority (PPA) and the Social Security and National Insurance Scheme (SSNIT) for the information requested.

The Applicant, dissatisfied with the Respondent's response to his application, petitioned the Right to Information Commission ("the Commission") on 25th October, 2024 for a review of the Respondent's response referring him to PPA and SSNIT.

Upon receipt by the Commission of the Applicant's application for review, it wrote to the Respondent in a letter dated 4th November, 2024 with reference number: RTIC/RF/VOL.6/0387 requesting the Respondent to grant the Applicant access to the information requested. In the Commission's letter indicated above, stated that:

"The Commission posits that bidders of contracts are required to attach these documents as part of the bidding process. Therefore, as the contract awarding institution, you have custody of such information as requested by the Applicant, hence can be made available."

The Respondent, in response to the Commission's letter under reference, requested for additional time in an email dated 13th November, 2024 to the Commission. That email has been reproduced herein:

"We wish to request for additional time to gather the underlisted pieces of information considering the nature of the requests..."

The Commission in turn granted the Respondent 14 days to submit the information requested to the Applicant in an email dated 23rd December, 2024. The Commission's checks with the Applicant however indicate that the Respondent refused, failed and / or neglected to comply with the Commission's directive.



ISSUE

Whether or not the Respondent is justified under section 20(1) (b) and (c) of the Right to Information Act, 2019 (Act 989) in referring the Applicant to other public institutions?

RESOLUTION OF THE ISSUE

The Respondent came under section 20 (1) (b) (c) of Act 989 referring the Applicant to the Public Procurement Authority (PPA) and the Social Security and National Insurance Trust (SSNIT) to seek requested information.

Section 20 (1) provides that where a public institution is unable to deal with an application because the information requested

“(a) is not in the custody or control of the public institution but to the knowledge of the public institution, it is held by another public institution, or

(b) is in the custody of the public institution but it is more closely related to the functions of another public institution

the information officer shall, within two days of the receipt of the application,

(c) refer the applicant to the relevant public institution; or

(d) transfer the application to the relevant public institution and give written notice of the transfer to the Applicant”

The question, then, is whether the Respondent is justified in referring the Applicant to another public institution to access the information requested. The Commission finds that documents such as the SSNIT clearance certificate and PPA license are prerequisites for contracts in public institutions. These documents are submitted when contracts are awarded. The Commission therefore finds it difficult to accept the Respondent's claims that it did not have such documents in its possession. The Respondent in this instance is the contract-awarding institution and hence required bidders of contracts to provide requisite documents as part of the bidding processes. It does not therefore lie in the mouth of the Respondent to say that it did not have custody of the



documents being requested by the Applicant. In view of this, the Commission holds that the Respondent is not allowed to have the requested pieces of information sought by the Applicant in its custody and may not justify referring the Applicant to another public institution under section 20 of Act 989. The Commission resolves the issue set down for determination. Moreover, the Commission does not find the pieces of information requested by the Applicant to be exempt from disclosure under sections 5-16 of Act 989.

FINAL ORDERS

In the instant case, the Ministry of Education was mandated by law to provide the pieces of information requested by Mr. Ernest Dansah Appiah and failure to provide same vests the Commission with the power under section 43 (2)(c) of Act 989 to issue appropriate recommendations and penalties.

In view of the aforementioned, the Commission hereby makes the following specific orders directed at the Minister of Education:

1. **Based on the Respondent's failure to make decisions on the Applicant's application lodged with it, an administrative penalty of GH¢ 80,000 is imposed on the Respondent and this shall be payable to the Commission not later than 14 days after the date of receipt of this decision. The penalty so imposed shall attract an additional default penalty at a rate of 10% on the principal penalty sum of GH¢ 80,000 in the event of default for any additional 14 days thereafter.**
2. **The Minister of Education shall ensure that the pieces of information requested are released to the Applicant not later than 7 days after receipt of this decision by the Commission, viz:**
 - a. **Public Procurement Authority Approval Letters for the use of Single Source Procurement method in respect of attached list of contract details.**



5. Statutory mandatory documents such as SSNIT Clearance Certificate and BEA license submitted by contractors in respect of attached list of contracts details.

3. That the information ordered to be released to the Applicant under Paragraph 2 supra shall attract a reasonable charge of GH¢ 0.27 per page, where it is to be photocopied. If the information is to be released in a printed form, a fee or charge of GH¢ 0.38 per page shall apply and a fee of GH¢ 0.29 per page shall apply where the information is to be released in a computer readable form on an external storage device pursuant to the Fees and Charges (Miscellaneous Provisions) Act, 2022 (Act 1080).
4. That the Ministry of Education shall keep the Commission in copy when submitting the information above to the Applicant.


YAW SARPONG BOATENG, ESQ
EXECUTIVE SECRETARY

