



MINISTRY OF EDUCATION
GENERAL ADMINISTRATION
P. O. BOX M 45, ACCRA
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**THE RIGHT TO INFORMATION COMMISSION
ACCRA
12TH MARCH, 2025**

AFR NO: RTIC/AFR/95/2024

**MICHAEL NANA AMISSAH
ACCRA**

APPLICANT

AND

MINISTRY OF EDUCATION

RESPONDENT

ACCRA

**DETERMINATION BY THE RIGHT TO INFORMATION COMMISSION IN RESPECT
OF APPLICATION FOR REVIEW FILED BY MICHAEL NANA AMISSAH AGAINST
MINISTRY OF EDUCATION'S REFUSAL TO RELEASE INFORMATION
REQUESTED BY MICHAEL NANA AMISSAH**

FACTS

On 1st October, 2024, Michael Nana Amissah (hereinafter referred to as the "Applicant") requested for information from the Ministry of Education (hereinafter referred to as the "Respondent") through its Information Officer.

The information requested regards the expression of interest and request for proposal (EOI AND RFP) process for the contract entitled "Consultancy Services for the Supervision of Building Construction Works, Supply and Technology, Engineering and Mathematics (STEM) Centre as the Supervision of BSTEM Programme Across the Country" [MOE/FPMU/QCBS/CS/04/19], awarded to the joint venture of Engineering Services Provision Company Ltd and Collision & Associates ("JV").



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The information requested is as follows:

1. From the JV's EOI submission, provide a comprehensive list of:
 - i. Names of employees/sub-consultants ("Staff") whose CV's and Credentials were submitted, and;
 - ii. The proposed Position of the named Staff.
2. From the JV's EOI submission, provide a comprehensive list of:
 - i. Names of Staff whose CV's and Credentials were submitted, and;
 - ii. The Proposed Position of the named Staff
3. From JV's RFP submission at section '3E TEAM COMPOSITION AND TASK ASSIGNMENT' (as also referenced in their executed contract at 'Appendix B - Key Expert'), provide:
 - i. Staff name for each 'Position' where 'Name of Staff' listed as "To be assigned";
 - ii. Date(s) on which JV furnished details (i.e. Staff name, CV, Credentials).
4. All communications, notifications, and meeting minutes pertaining to:
 - i. Unassigned Positions referenced in point No. 3 above;
 - ii. Rejection of proposed Staff, Position or Task Assigned, and;
 - iii. Removal/Replacement of Staff.

The Applicant, on 17th September, 2024, wrote a follow-up letter to the Respondent. However, there was no response, and so the Applicant, through an email addressed to the Right to Information Commission (the Commission) dated 4th October, 2024, made a complaint to the Commission for a review of the Respondent's failure to respond to his application.

Upon receipt by the Commission of the Applicant's application for review, it wrote to the Respondent through the Minister of Education in a letter dated 14th October, 2024 with reference RTIC/RF/VOL.6/0268. In the said letter, the Commission requested to be furnished with the reason for the refusal to grant the Applicant access to the pieces of information requested. The



Respondent via email dated 22nd October, 2024 responded to the Commission's letter intimating that its records did not show any application for information submitted by the Applicant.

The Respondent subsequently wrote to the Commission via email dated 24th October, 2024 acknowledging receipt of the Applicant's application for pieces of information. The Commission was also notified of a phone call between the Applicant and the Respondent agreeing that a decision regarding the application would be communicated to the Applicant accordingly. The Respondent then again via email to the Commission dated 11th November, 2024, asked the Applicant to provide an identification card, relying on section 18(1)(f) of Act 989. The Applicant sent a scanned copy of his identification card via email dated 13th November, 2024 to the Respondent.

It is worthy to note that the Respondent through email dated 18th November, 2024 provided partial information to the Applicant, which is from point 3i (3E Team Composition and Task Assignment) of the information request, and denied the Applicant access to point 4. The Respondent hinged its denial of access to part of the requested information on section 13(1)(a) and (b) of Act 989 arguing that that information constitutes internal working information of the Respondent.

Meanwhile although the Respondent promised to communicate decisions on the remaining requests of the Applicant, no such decisions were communicated as of the time of this determination by the Commission.

ISSUE FOR DETERMINATION

On account of the above stated facts and circumstances of the instant case, the Commission finds it necessary to determine the issue, **whether or not the information denied by the Respondent is exempt from disclosure.**

After closely examining the exemption contained in Section 13(1)(a) and (b) of Act 989, the Commission concludes that the Applicant's request point 4 is partly exempt from disclosure. That is to say that meeting minutes pertaining to " ..



- i. Unassigned Positions referenced in point No. 3 above;
- ii. Rejection of proposed Staff, Position or Task Assigned; and
- iii. Removal/Replacement of Staff."

Are exempt from disclosure for being internal working information. This is because the minutes reveal the views, opinions, arguments, or submissions of attendees of such meetings which eventually lead to decisions or policies or communique. What can be released to an applicant are the decisions or policies or communique of such meetings

Aside the request of point 4. as dealt with above, request points 1 and 2 basically concern list of names and proposed positions. The Commission does not find any of such information to be exempt from disclosure.

According to section 27 (1) (b) of Act 989, one of the two main grounds upon which an applications for access to information can be denied is when the requested information is exempt.

FINAL ORDERS

In the instant case, the Ministry of Education was mandated by law to provide to the Applicant information respecting names of staff members whose CVs and credentials were submitted and their proposed positions; communication and notification pertaining to unassigned positions, rejection of proposed staff, position or task assigned, and removal or replacement of staff, all pertaining to the consultancy services contract awarded to the joint venture of Engineering Services Provision Company Ltd and Collision & Associates ("JV"). Failure to provide the Applicant with these pieces of information gives the Commission the power under section 43 (2)(c) of Act 989 to issue appropriate recommendations or 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 a decision on the Applicant's request points 1 and 2 lodged with it, an administrative penalty of GH¢ 50,000 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% of the principal penalty sum of GH¢ 50,000 in the event of default for any additional 14 days thereafter.

2. The Minister of Education shall ensure that the following pieces of information requested are released to the Applicant not later than 7 days after receipt of this decision by the Commission:

1. From the JV's EOJ submission, provide a comprehensive list of:

- iii. Names of employees/sub-consultants ("Staff") whose CV's and Credentials were submitted, and;
- iv. The proposed Position of the named Staff.

2. From the JV's EOJ submission, provide a comprehensive list of:

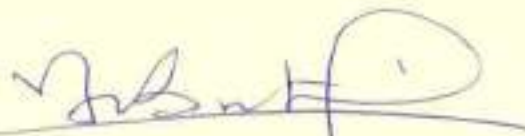
- iii. Names of Staff whose CV's and Credentials were submitted, and;
- iv. The Proposed Position of the named Staff

4. All communications, notifications... pertaining to:

- i. Unassigned Positions referenced in point No. 3 above;
- ii. Rejection of proposed Staff, Position or Task Assigned, and;
- iii. Removal/Replacement of Staff"

3. The information ordered to be released to the Applicant under Paragraph 3 supra shall attract a charge of GH¢0.27 per page, where it is being released in hard copy. If the information is to be released in PDF format, a fee or charge of GH¢0.29 should be applied for the information per page pursuant to the Fees and Charges (Miscellaneous Provisions) Act, 2022 (Act 1080).

4. The information ordered to be released shall be copied to the Commission.


YAW SARPONG BOATENG, ESQ
EXECUTIVE SECRETARY

