



New Zealand Fire Service

National Headquarters
Level 12
80 The Terrace
PO Box 2133
Wellington

New Zealand

Phone+64 4 496 3600, Fax +64 4 496 3700

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A J

By email: fyi-request-5298-b0606d7a@requests.fyi.org.nz

Dear A J

OFFICIAL INFORMATION REQUESTS RELATED TO MYFIRE

Background

In your correspondence of 28 - 30 January 2017, you requested a range of information from the New Zealand Fire Service Commission ('**NZFS**') pursuant to the Official Information Act 1982 ('**OIA**').

Namely, your requests were as follow:

1	If this request is to be denied via the reason that the software is in fact a trade secret of the supplier; I would expect to see the section of the original contract (or the contract in its entirety) that states that the IP and software still belongs to the supplier and not the NZ Fire Service Commission.
2	I'm unsure how the old supplier's trade secrets could be protected from every potential future competitors / supplier (given the new supplier would be working with the old source code) and Guidance in this area would be appreciated as to how exactly the New Zealand Fire Service Commission believes the trade secrets of suppliers will be protected into the future.
3	What unit test framework and language(s) are used for the development of the myFire mobile app?
4	Who has the rights over the myFire source code? Specifically, the right to make this information public? If it is the developer, please provide the developers details. If it is the NZ Fire Commission, please revisit the OIA request which was declined as releasing trade secrets. If the developer has rights over the source code, does this mean the developer is also able to withdraw the source code from the fire service to protect his/her trade secrets from their competition had the latest tender been won by a different supplier? Is the expenditure on the myFire app therefore considered a donation, as the NZ Fire Commission does not actually have rights over what was paid for? If this was a donation, is the developer a registered charity?
5	How many submissions were made for the latest myFire tender (Nov/Dec 2016 period)?

The purpose of this letter is to respond to OIA Request [1], and update you on NZFS's progress in respect of OIA Requests [2] – [5].

OIA Request [1]

Intellectual property and trade secrets

In OIA Request [1], you asked:

If this request is to be denied via the reason that the software is in fact a trade secret of the supplier; I would expect to see the section of the original contract (or the contract in its entirety) that states that the IP and software still belongs to the supplier and not the NZ Fire Service Commission.

NZFS commissioned and owns the myFire Source Code (with the exception of certain intellectual property, incorporated into myFire, which continues to be owned by the supplier).

Notwithstanding that ownership of the myFire Source Code, NZFS considers that the source code incorporates trade secrets of the supplier (as earlier set out in my letter of 26 January 2017). NZFS anticipates providing you further information, in connection with that matter, in the course of responding to OIA Request [4].

Contract governing the supply of the myFire Source Code

The contract between NZFS and the supplier of the myFire Source Code, that governed the supply of myFire, is the all-of-government *Services Agreement relating to the Supply of Design Services* (the '**AoG Agreement**').

The AoG Agreement is prepared by the Ministry of Business Innovation and Employment ('**MBIE**'). MBIE negotiated the provisions of the AoG Agreement on behalf of a number of state sector agencies, and appointed a number of suppliers to a panel that could be engaged by agencies when required.

As the terms of the AoG Agreement are more closely connected with the functions of MBIE, than with the functions of NZFS, NZFS has transferred OIA Request [1] to MBIE in accordance with subsection 14(b)(ii) of the OIA.

MBIE has been notified of this transfer, and is required to respond to OIA Request [1] within no more than 20 working days from the date it receives it. For your convenience, I note that MBIE can be contacted at *oia@mbie.govt.nz* or *PO Box 1473, Wellington 6140*.

OIA Requests [2] – [5]

NZFS is presently collating the information required to respond to OIA Requests [2] – [5], and looks forward to providing that information to you in due course.

Yours sincerely



Leigh Deuchars
Director, Office of the Chief Executive