



An Roinn Gnóthaí Eachtracha
Department of Foreign Affairs

Our Ref: FoI/Req/21/089

Date 13 May 2021

Dear Mr. Farrell,

I refer to the request which you have made under the Freedom of Information Act 2014 for access to records held by this Department, as follows:

I would like to request copies of all records relating to decision not to provide funding (under the Irish Aid programme) to the charity Bóthar in 2018 and in 2019.

I refer also to the acknowledgement of your request which was sent to you on 20 April 2021.

I have identified 17 records that fall within the scope of your request. The records are listed chronologically in the schedule attached. I have made a decision to grant 5, part-grant 2 and refuse 10 of the records. Where records have been part granted, the material has been redacted in accordance with Section 29 (1) Deliberations of FOI bodies; Section 30 (1)(a) and (b) Functions and negotiations of FOI bodies. Where access has been refused, the records are exempt from release under Section 29 (1) Deliberations of FOI bodies; Section 30 (1)(a) and (b) Functions and negotiations of FOI bodies.

In addition, the majority of information contained in two part-granted records (Nos. 7 and 16) and three refused records (Nos. 4, 5 and 14) is outside the scope of the request. In the case of the part-granted records, the relevant sections have also been redacted.

The organisation Bóthar was unsuccessful in its applications to the Department of Foreign Affairs' Civil Society Fund in 2018 and 2019. The Civil Society Fund (CSF) is the Department of Foreign Affairs' main development project funding scheme. It primarily supports Irish NGOs to carry out development projects overseas of between 1-3 years duration. The Civil Society Fund is a competitive funding scheme which amounts to €6.5m in 2021. Applications are accepted on an annual basis and are assessed using standardised criteria, which include issues related to governance, financial oversight, value for money and results-based management. All organisations, both successful and unsuccessful, are provided with written feedback on their application.

Deliberations of FOI bodies – Section 29 (1)

Records 1-6 and 10-15 contain opinions, advice, recommendations and the results of consultations considered by the Department for the purposes of deciding if applicants to the Civil Society Fund will receive funding.

In reviewing the release of the records, I considered the need for effective mechanisms to maintain public confidence in Government bodies through access to information on their performance; the right of the public to have access to information/obtain reasons for decisions: the accountability of administrators and scrutiny of decision-making processes and the use of public funds. It is important that the public can be assured that the Department applies robust processes to the management of public money. In that regard, there is already significant detail on the Department's use of due diligence in grant management on the public record, including the detail in the call for proposals and the application and guidance all of which are on the public record – www.irishaid.ie. In addition, the Department's due diligence is also thoroughly scrutinised at international level by the OECD as demonstrated in the most recent OECD DAC Peer Review of Ireland's international development cooperation (May 2020) - [OECD Development Co-operation Peer Reviews: Ireland 2020 | en | OECD](#). The annual announcement of each Civil Society Funding round is also on the public record - [Civil Society Fund - Department of Foreign Affairs \(irishaid.ie\)](#).

I have decided that disclosure of these records would be contrary to the public interest. In considering non-disclosure, I took into account the fact that release could prejudice the decision-making process/impair future decisions by giving insight into the criteria by which the Civil Society Fund appraises applications and in doing so compromise the competitive nature of the fund. It is in the public interest that the appraisal process is robust and cannot be 'gamed' by applicants. While the main criteria for appraisals are a matter of public record, releasing the sub-criteria for appraisal or the detailed marking scheme could facilitate weaker applicants in presenting applications which disguise those weaknesses. It is part of the set of due diligence controls of the Department that the detailed methodology behind the Department's appraisals remains confidential. Thus, I am satisfied that the public interest is best served by part-granting/refusing the relevant documents.

In determining the public interest in this particular instance, I have given due weight to recent media reports of Court proceedings, which included reference to an ongoing Garda investigation, and the consequence of heightened interest in matters pertaining to the governance of Bóthar, and weighed this against the Department's need to preserve the integrity of the competitive process as it continues to deliver effective value-for-money grant assistance to suitably qualified organisations. In this regard, it is my view that the public interest in this case is discharged through the release of the Department's feedback to Bóthar in both 2018 and 2019 (Records No. 9 and 17).

Functions and Negotiations of FOI bodies – Section 30 (1)(a) and (b)

I have considered Section 30 (1) (a) and (b) of the 2014 Act in making my decision not to release or to part-grant certain information. I took account of the following public interest factors: the need for effective mechanisms to maintain public confidence in Government bodies through access to information on their performance; the right of the

public to have access to information/obtain reasons for decisions; the accountability of administrators and scrutiny of decision-making processes and the use of public funds. Also considered were the principles of openness, transparency and accountability in decision-making and the need for the public to be better informed. However, the Department carries out important functions in the public interest in terms of providing assurance that risk management, governance, and internal control processes are operating effectively which may, at times, mitigate against release of certain material.

Section 30 (1)(a)

The Department considers what is contained in the detail of how it appraises applications for competitive funding schemes, how these applications are analysed, the sub-marking system and guidance as its intellectual property. The whole internal deliberative process is sensitive and is considered proprietary information. It is important for robust governance and due diligence that the Department can receive honest responses from applicants that are accurately representative of the organisations applying for public funding and candid assessments from appraisers. This internal system of assessment is not normally one that would, for example, be shared with other international donors – whether other Governments of donor countries or institutional donors. The disclosure of records containing information about the appraisal system would allow applicants to ‘game’ the system. The result is that public funding may not go to the best applicants.

Given the competitive nature of the Civil Society Fund, it is reasonable to assume that organisations which secured access to appraisals relating to other bodies, would use this information to inform their applications. In this way, they would gain an unfair competitive advantage.

Section 30 (1)(b)

The Civil Society Fund is a competitive funding scheme. As with all funding provided through the development cooperation programme it adheres to a Grant Management Standard. This includes carrying out rigorous appraisals of applications, guided by clear appraisal criteria. This is a core management function relating to the control of financial resources. As above, it is an essential feature of the due diligence controls of the Department that the detailed methodology behind the Department’s appraisals remains confidential. The frank nature of the appraisals is crucial in terms of the robustness of the process and of informing the Department’s decisions. The release of the detailed appraisals could have a negative impact on the degree of candour provided in future assessments and it could prejudice the decision-making process and/or impair future decisions and thus affect the competitive nature of the Civil Society Fund. This would be contrary to the public interest.

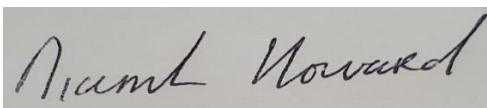
In weighing these adverse consequences against the public interest, I have again considered the right of the public to have access to information; the need for an open, transparent and accountable civil service and the need for decision-making processes to be adequately scrutinised. I am satisfied that the balance favours refusal of the internal documents which were not shared with Bóthar rather than release on this occasion.

Right of Appeal

Should you wish to appeal this decision, you may do so in writing to the Freedom of Information Unit, Department of Foreign Affairs and Trade, 76-78 Harcourt Street, Dublin 2 or by email to foi@dfa.ie. A fee applies for an appeal for access to non-personal information; the level of this fee has been set at €30. For methods of payment, please contact FOI Unit at foi@dfa.ie, or 01-4082857.

You should make your appeal within 4 weeks (20 working days) from the date of this notification. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Yours sincerely

A rectangular box containing a handwritten signature in black ink. The signature is written in a cursive style and reads "Niamh Howard".

Niamh Howard
Civil Society Unit
Development Cooperation and Africa Division