



2 February 2009

Paul Griffiths
request-1150-30f3389e@whatdotheyknow.com
(by email only)

Dear Mr Griffiths,

REVIEW OF REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000

I am writing in response to your request for an Internal Review following our letter to you dated 8 September 2008. I am sorry for not replying before now. The response of 8 September should have made clear that section 43 of the Freedom of Information Act is a qualified exemption and set out the public interest arguments in favour of releasing the information and the arguments in favour of maintaining the exemption and withholding the information. All of the information that was not released in that letter is being withheld under Section 43 (2) of the Act, which is in respect of Commercial Interests and the commercial sensitivity of that information.

I should explain that in our view the release of that information would be prejudicial both to the Cabinet Office's own interests and to that of both EcovertFM and Senate Training. Release of information relating to services provided to the Department by third parties could jeopardise the market's forward position and this could adversely affect the ability of our suppliers to continue to provide the Cabinet Office with services in the future.

A further reason for withholding the information requested is that it could be detrimental to the departments ability to achieve value for money in the future procurement of those services as it would be possible for prospective suppliers to work out what we are paying for now, decide how much they are willing to 'under-cut' that figure and then bid on that basis, rather than assess a proper and true market price for the provision of those services.

Release of the information would also in our view jeopardise our supplier's commercial interests and arrangements as it would allow their competitors to benchmark their prices and undercut their bids in future tendering processes. Since section 43(2) of the Freedom of Information Act 2000 states that "Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it)" this is further grounds for the withholding of the information which you have requested.



Section 43 (2) is a qualified exemption and I have considered carefully whether the balance of the public interest favours maintaining the exemption on Section 43 (2) or disclosing the information requested. I recognise that there is a public interest in disclosure of information, and that openness may increase public trust and confidence in government. I also recognise that there is a public interest in the public being able to understand the way in which government operates in practice and being able to evaluate the terms on which the Cabinet Office appoints its major contractors.

Against this I have weighed the public's interest in the Government securing value for money when contracting specialist services of this nature. There is a strong public interest in departments being able to secure the best terms from the contractors to ensure value for money and lessening the burden to the taxpayer. Disclosure of commercially sensitive information would make it harder for the Cabinet Office, or other government departments, to negotiate sound financial terms in future competitions for work of this nature as well as undermining the competitiveness of our service providers. Neither of these is in the public interest.

As is the case when handling internal reviews, we have considered your case afresh and we have had further discussions with the companies concerned. Taking all of the above into consideration our view is that the decision to withhold under Section 43 (2) of the Act the information that you requested is correct and should still stand.

I hope that this addresses your questions. If you are not content with the outcome of your internal review, you may apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

RCMRugston

PP **SUE GRAY**

