

26 January 2010

Mr Julian Todd

Our Ref: F0003489

Dear Mr Todd,

**Freedom of Information Act 2000**

I refer to my letter of 31 December 2009, in which I indicated that the Department was considering a qualified exemption under the FOI Act 2000, Section 43 – Commercial Interests.

The information you requested below at b. c. and d. was provided in my previous response of 31 December 2010.

- b. detailed costs to the government for these contracts.
- c. the revenue raised by the Landmark from fees made possible by this government concession.
- d. details of any added costs for serving this contract caused by changes due to SI1900(2009).

I am writing to advise you that the Department has decided not to disclose the information you have requested asking for “copies of all contracts and service agreements between the DCLG and Landmark Information Group relating to these databases”. We have interpreted this request as being the service contracts which are in place between the keeper of the register (the Secretary of State for the Department of Communities & Local Government) and the Register Operator (Landmark Information Group).

The information you requested is being withheld as it falls under the exemption in Section 43 (2) of the Freedom of Information Act 2000 Regulations. In applying this exemption we have had to balance the public interest in withholding the information against the public interest in disclosing the information. The attached annex to this letter sets out the exemption, as well as the factors the Department of Communities & Local Government (CLG) considered when deciding where the public interest lay. It also includes a schedule of the types of documents analysed by CLG when considering your request.

Communities and Local Government as an organisation aims to be as helpful as possible in the way it deals with requests for information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. If, however, you are not satisfied with the way in which your request has been handled or the outcome, you may request an internal review within two calendar months of the date of this letter. Information about the Department's review procedures and how to apply for an internal review of your case is contained in the enclosed leaflet. This also explains your right to apply directly to the Information Commissioner for a decision in the event that you remain dissatisfied following the authority's review

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely,

**Phil Beschizza**

## Annex A

<i>Exemption in full</i>	
<b>43(2) Information is exempt information as disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person.</b>	
<p><i>Factors for disclosure</i></p> <ul style="list-style-type: none"> <li>• Promoting accountability and transparency by public authorities and decisions taken by them.</li> <li>• Allowing individuals and companies to understand decisions made by the Department.</li> <li>• If the public have information on environmental information that can influence decisions from a position of knowledge rather than mere speculation.</li> </ul>	<p><i>Factors for withholding</i></p> <ul style="list-style-type: none"> <li>• The need to protect commercially sensitive information of third parties.</li> <li>• The ability of the Department to let contracts in future, if prospective contractors believe such information will be routinely released, would be affected.</li> </ul>
<p><i>Reasons why public interest favours withholding information</i></p> <p>The contracts, and service agreements, between the DCLG and Landmark Information Group relating to the Domestic and Non-Domestic EPC databases are extensive and do contain commercially sensitive information. For example, the contractual obligations include reference information from the Landmark Invitation To Tender (ITT) response. The final contract and service agreements were the result of an ITT, Best and Final Offer and negotiations between DCLG and Landmark. Therefore, the release would prejudice the commercial interests of Landmark. The contract, and service agreements, to operate the EPC databases was subject to an “open” competition, for which several IT companies submitted bids, to disclose details of Landmark’s contracts and service agreements would place them at a disadvantage in any subsequent bidding process when the EPC database operating contract came up for renewal. Potentially, there are also some details which need to be excluded because of system security issues.</p>	

<b>Type of Document</b>	<b>Applicable Exemption</b>
Freedom of Information Act 2000, Part II – Exemption Information	Section 43 – commercial interests
DCLG and Landmark Service Level Agreement.	Section 43 – commercial interests