



Cabinet Office

Room 405
70 Whitehall
London, SW1A 2AS

foi-team@cabinetoffice.gov.uk
www.cabinetoffice.gov.uk

Peter Anderson

By email: request-649232-1b4284d0@whatdotheyknow.com

FOI Reference: FOI329647
04/05/2020

Dear Peter Anderson

I refer to your request where you asked:

“ Request for:-

- A. The decision to use Deloitte, the companies considered and due diligence of all potential auditors.*
- B. The decision not to use the National Audit Office.*
- C. Whether Deloitte will be considering the reports of exaggeration and fraud by Kier.*
- D. The cost of the Deloitte appointment*
- E. Deloitte's remit and terms of reference and whether this extends to their appointment by Highways England*

The request follows the report here:-

<https://www.telegraph.co.uk/business/2020/02/22/government-hires-advisers-avoid-carillion-style-implosion-hs2/> and here <http://www.englandhighways.co.uk/>”

I am writing to advise you that following a search of our paper and electronic records, I have established that the information you requested is held by the Cabinet Office.

Concerning questions C and E of your request, I consider these to be exempt from disclosure in accordance with the exemption at Section 43(2) (prejudice to commercial interests) of the Freedom of Information Act (FOIA).

Section 43(2) is engaged because the release of this information would be prejudicial to the commercial interests of the Cabinet Office, strategic suppliers and wider Government.

Factors in favour of disclosing the requested information include:

- The public interest in openness and transparency of Government's commercial activities and public service delivery, enabling accountability in terms of the use of public funds and appropriate risk management;
- The fact that private sector bodies engaging in commercial activities with the public sector must expect some information about those activities to be disclosed, particularly where they are involved in delivering public services.

Factors in favour of withholding the requested information include:

- There is a strong economic interest in the capacity of the government to discuss its commercial relationships with strategic suppliers in a free and frank manner;
- Information in the scope of the request may include instances where a strategic supplier has not met performance expectations or is facing financial difficulties. It is important that Government can work privately with these suppliers to resolve these issues where they arise, to effectively address and manage risk throughout the commercial life cycle of Government's commercial arrangements;
- Information in the scope of the request may detail disputes or matters which may give rise to potential disputes between Government, strategic suppliers and their subcontractors in relation to supplier performance, including existing, pending or threatened litigation or other legal proceedings. Releasing detail of this nature:
 - makes it more difficult to resolve an issue or settle a dispute or potential dispute, which may expose Government to greater risks and costs (e.g. litigation costs)
 - exposes Government to the risk of further proceedings by the supplier for defamation, thereby exposing Government to further costs (both time and money)
 - may be contrary to confidentiality provisions (e.g. contractual provisions, settlement agreements or arbitration directions)
- It is self-evident that details of a particular supplier's performance and their financial situation will also constitute commercially sensitive information from the perspective of the supplier since negative assessments of supplier performance and/or financial risks could only be detrimental to suppliers and their subcontractors;
- Disclosure of fragments of commercially sensitive information will weaken the government's position in any negotiations and make it harder for the responsible department to secure value for money for the taxpayer. This would not be in the public interest.

After weighing up the competing public interest considerations, I have determined that the balance of public interest is in favour of withholding this information requested under Section 43(2) of the FOIA.

I can confirm in relation to question A, the Cabinet Office retained Deloitte to support two pieces of work where they can bring their expertise to bear. We monitor the financial health and performance of all our strategic suppliers and this is standard practice. The work was added to existing contracts that Deloitte had with the Cabinet Office.

In terms of question B, the National Audit Office scrutinises public spending for Parliament. It audits the financial statements of all central government departments, agencies and other public bodies, and reports the results to Parliament. It does not undertake audit work of private companies.

In response to question D, I can confirm that the value of the contracts were £20,600 (excl. VAT) and £15,000 (excl. VAT)."

If you have any queries about this letter, please contact the FOI Team quoting the reference number above.

If you are unhappy with the service you have received in relation to your request or wish to request an internal review, you should write to:

Eirian Walsh Atkins
Cabinet Office
70 Whitehall
London
SW1A 2AS

email: foi-team@cabinetoffice.gov.uk

You should note that the Cabinet Office will not normally accept an application for internal review if it is received more than two months after the date that the reply was issued. If you are not content with the outcome of your internal review, you may apply directly to the Information Commissioner for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by Cabinet Office. The Information Commissioner can be contacted at:

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

Yours sincerely

*FOI Team
Cabinet Office*