

Mr Malcom Knight

By email only to: request-657767-9896fa22@whatdotheyknow.com

27 April 2020

Dear Mr Knight,

Our ref: FOI-20-0086

Thank you for your correspondence of 3 March 2020, in which you requested the following information from the University of Sussex.

Request

1. How you currently procure construction consultancy services, if via a framework(s) can you list the names of the framework(s) used.
2. The total value spent on construction consultancy services in the past 2 years, broken down by year.
3. The names of the suppliers who provided these services, with a percentage break down of the spend by supplier over the period.
4. How you currently procure building contractor services, if via a framework(s) can you list the names of the framework(s) used.
5. The names of the suppliers who provided these services, with a percentage break down of the spend by supplier over the period.
6. Which suppliers provided these services, with a percentage break down of the value distribution.
7. A copy of your current estates / property plan / strategy (or similar) and the value of your estates/property budget for the next two years.
8. A list of the schemes currently in Planning, pre-planning and consultation.
9. Who is the University of Sussex representative responsible for the procurement of professional services.

Response

Your request has been dealt with under the Freedom of Information Act 2000 ("the Act").

1. Where not available in-house or via our delivery partner, Sussex Estates and Facilities, construction consultancy services are procured in a number of different ways suitable to the specific requirement.

The University has access to a range of framework agreements that enable further competition or direct award based on framework level pre-tendered rates. These include but are not limited to the Southern University Purchasing Consortium (and wider University Purchasing Consortia), the NHS Shared Business Services, Crown Commercial Services and Bloom.

2. C.£2.5m split approximately by half in each period.

3.

Construction Consultancy	Percentage spend
Mace Cost Consultancy Limited	23%
Ove Arup & Partners Ltd	15%
Bloom Procurement Services Ltd	14%
Hoare Lea LLP	7%
Quayle Munro Project Finance LLP	6%
Aecom Limited	6%
Faithful+Gould	5%
Land Use Consultants	5%
Perfect Circle JV Ltd	5%
ADP Architecture Ltd	2%
Curtins Consulting	2%
Gyoury Self Partnership	2%
Rawls & Co LTD	1%
Steer Davies Gleave T/A Steer	1%
KPMG	1%
The Russell Partnership (UK) Limited	1%
Abell Nepp Architects Ltd	Less than 1%
Pentagram Design Ltd	Less than 1%
WKSpace	Less than 1%
Larch Consulting Ltd	Less than 1%
Buzz Consulting	Less than 1%
Rackstraw Limited	Less than 1%
Chimney Design Limited	Less than 1%
Macconvilles Surveying	Less than 1%
PARKER DANN LLP	Less than 1%
Bureau Veritas Building Control UK Ltd	Less than 1%

4. Building contractors are currently procured via the University's delivery partner Sussex Estates & Facilities (SEF)

5 & 6. The University is unable to comply with this part of your request as it does not hold the information that you have requested. This information is held by SEF.

The University is only required to provide recorded information which it holds, as the Act does not require a public authority to create information to answer a request if the requested information is not already held, or to answer a question unless the information requested exists.

You can find out more about the relevant section of the Act, and some guidance points which the University has considered when applying the Act in this response, in the form of a Guidance Note attached to this letter.

7. Although the University holds this information, it is being withheld under section 43 of the Act on the basis that disclosure would be prejudicial to commercial interests.

Section 43 exempts disclosure of information which would, or would be likely to, prejudice the commercial interests of any person including, in this instance, the University itself. In this case the University considers that releasing this information in to the public domain, and therefore to competitor institutions, could potentially undermine its position in the sector. Other universities could use this information to their advantage in what is now an extremely competitive

environment. In addition, releasing this information could prejudice the University's position when negotiating contracts with commercial providers for specific projects.

Section 43 is a qualified exemption and accordingly the University has balanced the public interest in maintaining this exemption against the public interest inherent in releasing the information. Although the University acknowledges that there is a public interest in openness and accountability in the activity of public bodies and also in allowing individuals to understand decisions made by public bodies, on this occasion the University considers that the public interest is better served in maintaining our competitive advantage and strong negotiating position at this time. Accordingly, the University has concluded that the public interest is best served in maintaining the exemption

You can find out more about the relevant section of the Act, and some guidance points which the University has considered when applying the Act in this response, in the form of a Guidance Note attached to this letter.

8. West Slope Residential Development – currently in planning, due for response mid-May 2020.

9. suppliers@sussex.ac.uk

If you are not satisfied with this response you may request a review but this must be within 40 days of receiving this response. In the first instance please write to Alexandra Elliott, the Head of Information Management and Compliance, at the address below. Full details of our Freedom of Information internal review procedure are at:
<http://www.sussex.ac.uk/ogs/policies/information/foi/procedure>.

If you need to contact us about your request please quote your reference number FOI-20-0086

Yours sincerely,

Lucy Pattenden
Information Officer
Information Management and Compliance

EXPLANATION OF FOIA

You will find additional information about Section 1(1) of the Act below. Some extracts from the legislation, as well as some of the guidance used when applying it is included.

Section 1 (1) General right of access to information held by public authorities.

Any person making a request for information to a public authority is entitled—.

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and.

(b) if that is the case, to have that information communicated to him.

Section 3(2) Public authorities.

For the purposes of the Act, information is held by a public authority if:

(i) it is held by the authority, otherwise than on behalf of another person, or

(ii) it is held by another person on behalf of the authority.

Guidance

The University has an obligation to inform a requester whether it holds the information you have requested.

If the University does not hold the information requested, provided it provides notification to you pursuant to section 1(1)(a) of the Act, it is not under any further obligations.

Guidance Note

Explanation of FOIA - Section 43 – Commercial Interests

You will find additional information about Section 43 of the Act below. An extract from the legislation, as well as some of the guidance used when applying it is included.

Section 43: Commercial interests.

1. Information is exempt information if it constitutes a trade secret.
2. 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).
3. The duty to confirm or deny does not arise if, or to the extent that, compliance with Section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).

Guidance

Section 43(1) exempts information if it constitutes a trade secret. The Act does not define a trade secret, nor is there a precise definition in English law. However, it is generally agreed that:

- it must be information used in a trade or business;
- it is information which, if disclosed to a competitor, would be liable to cause real (or significant) harm to the owner of the secret; and
- the owner must limit the dissemination of the information, or at least, not encourage or permit widespread publication.

Section 43(2) exempts information from being disclosed if such disclosure would be likely to prejudice the commercial interests of any person.

Section 43(3) provides that the duty to confirm or deny does not arise if, or to the extent that, complying with that duty could, or would be likely to, prejudice the commercial interests of any person.

The term 'commercial' can be taken to mean relating to an activity in the way of a business, trade or profession. Again, the exemption is (expressly) capable of applying not only to the commercial interests of outside organisations, but also to a public authority's own commercial interests.

When it comes to considering a public authority's own interests, a range of circumstances may be relevant, including the authority's position in the market place both as a purchaser and as a supplier. However, the prejudice to the commercial interests of a public authority must be contrasted with prejudice to other interests such as the body's political or other non-commercial reputational interests, which are not protected by this exemption.

The Ministry of Justice has issued guidance on the Section 43 exemption, which is available at <https://www.justice.gov.uk/downloads/information-access-rights/foi/foi-s43-exemptions.pdf>

The ICO has also issued guidance on the Section 43 exemption, which is available at https://ico.org.uk/media/for-organisations/documents/1178/awareness_guidance_5_v3_07_03_08.pdf