

7 September 2016

INFORMATION REQUEST REFERENCE 16075

Dear [REDACTED]

Thank you for your information request, received on 16 August 2016. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

- “1. I would like to request the following:
- (i) A copy of LLDC’s contract with Emprise re. 3-Mills (assume sometime in 2010/11?);
 - (ii) A copy of LLDC’s subsequent contract with Southern Courts re. 3-Mills (assume sometime in 2012); and
 - (iii) A copy of LLDC’s subsequent contract with Advanced re. 3-Mills (assume sometime in 2013/14?).
2. In addition, I would like LLDC to formally confirm to me, via response to this email please, whether LLDC do indeed insist on both new employees and TUPE transferred employees to be re-vetted again (under an SIA non-statutory guideline known as ‘BS7858’ – In short, to obtain five years employment history and two personal referees!). I cannot fathom that this was LLDC’s intention at the time of contracting with its security providers, but would be grateful for your confirmation on this.”

I can confirm that the Legacy Corporation holds information relevant to your request. Our response follows your order:

- 1. A copy of LLDC’s contract with Emprise re. 3-Mills (assume sometime in 2010/11?);**

The contract with Emprise was between Emprise and GVA Grimley on behalf of the London Development Agency. An unsigned and undated copy of the agreement with Emprise is attached as **Annex A**. Please be advised that it is the standard practice of the Legacy Corporation to redact personal information unless consent to release the information has been received.

Section 40(2) – personal information

*(2) Any information to which a request for information relates is also exempt information if—
(a) it constitutes personal data which do not fall within subsection (1), and
(b) either the first or the second condition below is satisfied.*

The section 40 exemption is absolute and is not subject to the public interest test. In this instance, the relevant condition that applies is section 40(2) whereby the information is defined as personal data within Section 1(1)(a) of the Data Protection Act 1998. As we have not received consent of the data subject, release of the requested information at this time would contravene the first data principle under Schedule 2(1) of the Data Protection Act 1998.

Information in relation to the financial information for this contract has been redacted under s.43(2) – commercial interests.

Section 43(2) - Commercial interests.

(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).

The section 43(2) is a qualified exemption and subject to the prejudice test and the public interest test. Under the prejudice test we have to consider if disclosure of this information would, or would be likely to, prejudice our commercial interests or the commercial interests of a third party. Consideration is also given to the harm disclosing this information would be likely to cause, combined with other information already in the public domain (mosaic effect) or possibly released at a future date (precedent effect). The public interest test considers and balances the public interest in disclosing this information against the public interest in not disclosing this information and uses this assessment to decide whether there is sufficient justification in withholding this information under this exemption.

Information disclosed under the FOIA is considered to be public information, and while there is a presumption towards disclosure, consideration needs to be given as to who will have access to this information beyond the requestor and the purposes for which they could use the information.

The Legacy Corporation have assessed the impact of releasing the information redacted under this exemption. This contract is currently tendered every few years and the financial information for the earlier contracts is still current enough that, if it was disclosed, it would be likely to still have an impact on the commercial interests of the Legacy Corporation and impact on our ability to achieve best value for the public purse. There is, of course, a public interest in promoting transparency of the decisions and accountability in regards to the agreements that are entered into by public sector bodies. However, the disclosure of the information within this agreement currently identified as commercially sensitive would be likely to prejudice commercial interests of the Legacy Corporation because it will reveal detail of financial information which would be likely impact on current and future negotiations for this service which would harm the Legacy Corporation's ability to achieve best value for the public purse.

It is the view of the Legacy Corporation that, at this time, the public interest in withholding the information outweighs the public interest in disclosing it.

***2. A copy of LLDC's subsequent contract with Southern Courts re. 3-Mills
(assume sometime in 2012);***

The contract with Southern Court is attached. Please be advised that it is the standard practice of the Legacy Corporation to redact personal information unless consent to release the information has been received.

Section 40(2) – personal information

(2) Any information to which a request for information relates is also exempt information if—
(a) it constitutes personal data which do not fall within subsection (1), and
(b) either the first or the second condition below is satisfied.

The section 40 exemption is absolute and is not subject to the public interest test. In this instance, the relevant condition that applies is section 40(2) whereby the information is defined as personal data within Section 1(1)(a) of the Data Protection Act 1998. As we have not received consent of the data subject, release of the requested information at this time would contravene the first data principle under Schedule 2(1) of the Data Protection Act 1998.

Information on bank details has been redacted as it was provided in confidence.

Section 41 - Information provided in confidence.

(1) Information is exempt information if—
(a) it was obtained by the public authority from any other person (including another public authority), and
(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.
(2) The duty to confirm or deny does not arise if, or to the extent that, the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) constitute an actionable breach of confidence.

The section 41 exemption is an absolute exemption and is not subject to the public interest test. The bank details were provided with the expectation that they would be kept confidential.

Information in relation to the financial information for this contract has been redacted under s.43(2) – commercial interests.

Section 43(2) - Commercial interests.

(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).

The section 43(2) is a qualified exemption and subject to the prejudice test and the public interest test. Under the prejudice test we have to consider if disclosure of this information would, or would be likely to, prejudice our commercial interests or the commercial interests of a third party. Consideration is also given to the harm disclosing this information would be likely to cause, combined with other information already in the public domain (mosaic effect) or possibly released at a future date (precedent effect). The public interest test considers and balances the public interest in disclosing this information against the public interest in not disclosing this information and uses this assessment to decide whether there is sufficient justification in withholding this information under this exemption.

Information disclosed under the FOIA is considered to be public information, and while there is a presumption towards disclosure, consideration needs to be given as to who will have access to this information beyond the requestor and the purposes for which they could use the information.

The Legacy Corporation have assessed the impact of releasing the information redacted under this exemption. This contract is currently tendered every few years and the financial information for the earlier contracts is still current enough that, if it was disclosed, it would be

likely to still have an impact on the commercial interests of the Legacy Corporation and impact on our ability to achieve best value for the public purse. There is, of course, a public interest in promoting transparency of the decisions and accountability in regards to the agreements that are entered into by public sector bodies. However, the disclosure of the information within this agreement currently identified as commercially sensitive would be likely to prejudice commercial interests of the Legacy Corporation because it will reveal detail of financial information which would be likely impact on current and future negotiations for this service which would harm the Legacy Corporation's ability to achieve best value for the public purse.

It is the view of the Legacy Corporation that, at this time, the public interest in withholding the information outweighs the public interest in disclosing it.

3. A copy of LLDC's subsequent contract with Advanced re. 3-Mills (assume sometime in 2013/14?).

Southern Court Security were renamed Advanced Security during 2013, but an additional contract was not issued once the company had changed its name.

4. *In addition, I would like LLDC to formally confirm to me, via response to this email please, whether LLDC do indeed insist on both new employees and TUPE transferred employees to be re-vetted again (under an SIA non-statutory guideline known as 'BS7858' – In short, to obtain five years employment history and two personal referees!). I cannot fathom that this was LLDC's intention at the time of contracting with its security providers, but would be grateful for your confirmation on this."*

The current provider was appointed under an ESPO Framework 347 Contract. It is a requirement of this framework that the services delivered are *'to be provided by experienced staff, fully trained in the services they are providing, and in accordance with: The National Security Inspectorate (NSI) guidelines, which is a Security Industry Authority (SIA) Assessing Body for the Approved Contractor Scheme (ACS) BSI 7858 and/or equivalent (The British Standard for security screening of individuals in a security environment) BS 7984 or equivalent (The British Standard for key holding and response services) Licensed by Security Industry Authority (SIA).'* Suppliers listed on the framework were assessed for their financial stability, track record, experience and technical & professional ability, before being awarded a place on the framework.

If you are unhappy with our response to your request and wish to make a complaint or request a review of our decision, you should write to:

Executive Director of Finance and Corporate Services
London Legacy Development Corporation
Level 10
1 Stratford Place
Montfichet Road
London
E20 1EJ

Please note: complaints and requests for internal review received more than two months after the initial response will not be handled.

If you are not content with the outcome of the internal review, you may appeal directly to the Information Commissioner at the address given below. You should do this within two months of our final decision. There is no charge for making an appeal.

Further information on the Freedom of Information Act 2000 is available from the Information Commissioner's Office:

Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Telephone 08456 30 60 60 or 01625 54 57 45

Website www.ico.gov.uk

Yours sincerely



FOI / EIR Co-ordinator
London Legacy Development Corporation