



Level 10  
1 Stratford Place  
Montfichet Road  
London  
E20 1EJ



5 July 2017

**INFORMATION REQUEST REFERENCE 17-028**

Dear 

Thank you for your information request, received on 20 April 2017. You asked E20 Stadium LLP (E20) to provide the following information under the Freedom of Information Act 2000 (FOIA):

*“Under the freedom of information Act*

*1) Please provide the financial cost of the contract awarded to PHD Modular Access Services Ltd. to move the seats at the London Stadium breaking it down if possible to any upfront costs and annual costs for the life of the contract.*

*2) Please provide a copy of the agreement/contract between E20 Stadium LLP or London Legacy Development Corporation and PHD Modular Access Services Ltd. or subsidiary. If any elements are redacted please explain the reasons for any redactions.”*

I can confirm that E20 holds information relevant to your requests. Our response follows your order:

*1) Please provide the financial cost of the contract awarded to PHD Modular Access Services Ltd. to move the seats at the London Stadium breaking it down if possible to any upfront costs and annual costs for the life of the contract.*

With reference to the contract between E20 and PHD Modular Access Services Ltd (PHD), dated 1 February 2017, the financial cost of the contract is being withheld under section 43(2) – commercial interests.

*S.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.

E20 have assessed the impact of releasing the information redacted under this exemption. 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 financial cost would be likely to prejudice commercial interests of the E20 because it will reveal detail of financial information which would be likely impact on future potential procurements, which in turn would harm E20's ability to achieve best value for the public purse.

It is the view of E20 that, at this time, the public interest in withholding the information outweighs the public interest in disclosing it.

*2) Please provide a copy of the agreement/contract between E20 Stadium LLP or London Legacy Development Corporation and PHD Modular Access Services Ltd. or subsidiary. If any elements are redacted please explain the reasons for any redactions.*

Please find attached in **Annex A** the contract between E20 and PHD, dated 1st February 2017. Please note that some information has been redacted under the exemptions s.40 – personal information, s.31(1)(a) – prevention of crime and s.43(3) – commercial interests.

A schedule for these redactions is attached in **Annex B** and further detail on the application of these exemptions is provided below.

*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.*

It is the standard practice of the Legacy Corporation to redact personal information unless consent to release the information has been received.

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. The redacted information includes the names and signatures mentioned in this agreement. As we have not received consent of the data subjects, release of the requested information at this time would contravene the first data principle under Schedule 2(1) of the Data Protection Act 1998.

The section 31(1)(a) exemption and section 43(2) exemptions are both qualified exemptions 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 the prevention of crime or the commercial interests of us or 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 the relevant 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.

#### *S.31 - Law enforcement.*

*(1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice—*

*(a) the prevention or detection of crime*

E20 have assessed the impact of releasing this information, namely details of security procedures and processes, and consider that the public interest would not benefit from this information being released into the public domain. The security of the Stadium would be jeopardised, and the prevention of crime would be likely to be prejudiced. It is the view of E20 that the public interest in withholding the information outweighs the public interest in disclosing it.

#### *S.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).*

E20 have assessed the impact of releasing the information redacted under this exemption and also given PHD the opportunity to identify any information that would impact on their commercial interests. 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 E20 or PHD because it will reveal contractual and financial information which would be likely impact on current and future negotiations, which in turn would harm E20 ability to achieve best value for the public purse and impact on PHD's position in relation to other actual or potential commercial interests.

Both organisations need to be able to successfully operate in a small, strong and very competitive market. The information identified as commercially sensitive, if disclosed, would be likely to put both parties at a competitive disadvantage within this market by allowing competitors, who are not subject to the FOIA legislation, to gain access to commercially valuable information.

It is the view of E20 that, at this time, the public interest in withholding the information outweighs the public interest in disclosing it.

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:

Director  
E20 Stadium LLP  
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](http://www.ico.gov.uk)

Yours sincerely

FOI / EIR Co-ordinator

London Legacy Development Corporation / E20 Stadium LLP