



11 August 2022

INFORMATION REQUEST REFERENCE 22-014

Thank you for your information request, received on 16 June 2022. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

“A copy of the contract East London Energy has, enabling them to be the sole domestic energy provider in the village.

Request clarified to the provision of Schedule 11 - Community Energy Operation Requirements”

I can confirm that the Legacy Corporation holds information which falls within the scope of your request. The information relevant to your request is attached in Annex A.

Please be advised that information has been redacted under FOIA Section 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).

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.

In accordance with the statutory Code of Practice issued by the Information Commissioner's Office, as part of the public interest assessment, the Legacy Corporation contacts third parties referenced in the information, to give them the opportunity to provide examples of any harm from their perspective that there may be from releasing the information. Under FOIA, the Legacy Corporation cannot assume what information might be exempt, and therefore any third party that may be affected by disclosure is asked to provide details of the harm that releasing the information would have on its commercial interests. The Legacy Corporation take the views of affected third parties into consideration when undertaking the public interest assessment. In line with this process Equans were contacted for their views.

Prejudice to commercial interests

The Legacy Corporation has assessed the impact of releasing the information redacted under the exemption section 43(2) – commercial interests in order to decide whether disclosure would, or would be likely to, prejudice their commercial interests or those of any third party(ies). While the Legacy Corporation have no commercial interest in the agreement, releasing the redacted information would harm the commercial interests of Equans, therefore the Legacy Corporation have concluded that prejudice to commercial interests would be caused by disclosure so that the exemption is engaged.

Releasing the information currently redacted under section 43(2) would harm the commercial interests of Equans. Equans operate in a highly competitive commercial environment and releasing the redacted information would benefit their competitors which would impact on other contracts they have with other parties. It would also put them at a commercial disadvantage with competitors for future negotiations.

Public Interest Test

There is, of course, a public interest in promoting transparency of public authorities' decisions and accountability, however, the disclosure of the information within **Annex A** identified as commercially sensitive would prejudice commercial interests of Equans because it will reveal details which would impact on their commercial interest and future negotiations by giving their commercial information to their competitors.

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.

If you are unhappy with our response to your request and wish to make a request for an internal review of our response, you should write to:

Deputy Chief Executive
London Legacy Development Corporation
Level 9
5 Endeavour Square
Stratford
E20 1JN

Email: FOI@londonlegacy.co.uk

Please note: requests for internal reviews received more than forty working days 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