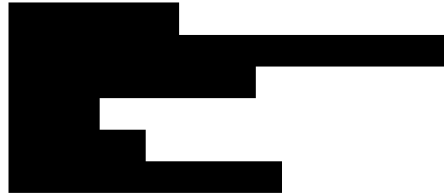
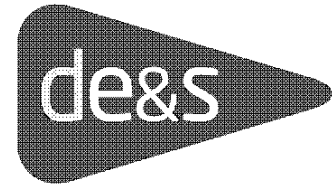




[REDACTED]
Defence Equipment & Support
Capital Ships



Our Ref:
CS/11/01/06/07
FOI Ref: PF 28-10-
2010-162533
Date:
5 January 2011

Dear Ms Ross

Further to my letter of 20 December 2010, I am now pleased to tell you that the review of the Queen Elizabeth (QE) Class contract and the BAE Systems Surface Ships (BAES SS) Terms of Business Agreement (TOBA) is complete and I am able to provide you with electronic copies of these documents, which have been redacted in accordance with Freedom of Information (FOI) guidance.

A total of seven documents are being provided, as follows:

Queen Elizabeth (QE) Class Aircraft Carrier Contracts

- Aircraft Carrier Manufacturing Phase Alliance Agreement
- Amendment No.1 to Aircraft Carrier Manufacturing Phase Alliance Agreement
- Amendment No.2 to Aircraft Carrier Manufacturing Phase Alliance Agreement
- Aircraft Carrier Manufacturing Phase Flow Through Contract
- Amendment No. 1 to Aircraft Carrier Manufacturing Phase Flow Through Contract
- Amendment No. 2 to Aircraft Carrier Manufacturing Phase Flow Through Contract.

BVT Surface Fleet Limited Terms of Business Agreement (TOBA)

- BVT Surface Fleet Limited (now BAES SS) Terms of Business Agreement.

You may be aware there are provisions within the FOI Act under which certain data is exempt from release. I have set out below the background and reasons for withholding certain information. The exemptions included in the FOI Act that apply to the information you have requested are Section 40 (Personal Information), Section 41 (Information provided in confidence) and Section 43 (Commercial Sensitivity).

Some of the information requested is being withheld under Section 43 of the Act, under which information is exempt if its release has the potential to prejudice the commercial interests of any person. This is a qualified exemption and as such the decision to release or to withhold the information depends on where the balance of public interest lies. In order to make this decision an assessment of the public interest factors on both sides of the
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argument has been undertaken. Where it was felt that the public interest in withholding the information outweighed that in releasing it, we have judged the information exempt, and have redacted the enclosed document accordingly. A summary of the public interest arguments considered is below.

Public interest factors that favour the disclosure of the information within the requested documents focus on the public interest in the accountability of the Department, demonstrating that value for money is being obtained for taxpayers and that effective contractual processes are in place. Greater transparency of financial planning and decision making processes also helps to make the Government more accountable. Furthermore, the release of both high-level and detailed information would allow a detailed understanding of how the Department plans its spending and how the different elements of a programme fit together over a long period.

Parts of this information relate to clauses provided by the MOD that are unique to these documents, and as such their release could prejudice future commercial bids. With regards to the TOBA, the release of labour rates, manhour figures, current personnel figures and total costs, when combined with Key Industrial Capability values elsewhere in the document, would enable BAES SS's competitors and customers to calculate commercially sensitive charging rates while the release of detailed figures outlining BAES SS's overheads would prejudice their ability to compete in a commercial environment. Turning to the QE Class contracts, the release of cost figures, profit levels and shareline data would also prejudice both MOD's and BAES SS's future negotiations and hinder MOD's ability to achieve value for money. In these cases we have judged that the public interest in withholding the information outweighs any public interest in release.

It should be noted that Absolute Exemption Section 40 (Personal Information) applies to parts of both the QE Class contract and BAES SS TOBA documents. This exemption (which relates to the Data Protection Act) prohibits the release of personal information to individuals other than the subject in all but exceptional circumstances, although this protection ends when the subject dies.

In addition, Absolute Exemption Section 41 (Information Provided in Confidence) applies to parts of the QE Class contracts. This exemption prohibits the release of information only if the MOD obtained it from any other person or organisation in confidence. The MOD has consulted with the relevant third-parties where information contained within the contract was supplied by third-parties to agree which information should be redacted.

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Head of Corporate Information, 2nd Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.gov.uk>.

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