

Our ref: 756,064

Your ref:

07 December 2017

Dear

Further to my interim reply to you dated 9/11/17, I am writing to confirm that we have now completed our search for the information, which you requested on 12/10/17.

In my interim letter I explained that we had to extend the time limit by 20 working days because the information requested must be considered under one of the exemptions to which the public interest test applies. This extra time was needed in order to make a determination as to the public interest.

Our answers to your questions 1-4 are set out below.

1. Highways England (HE) has not directly ordered any salt saturators in 2015, 2016 and 2017. All salt saturators have been ordered directly via the Area Maintenance providers for that Area. HE has reviewed this strategy and from 2018 will be procuring salt saturators directly and this will be advertised to the market soon. Therefore, HE cannot answer this question as the information is not actually held.
2. HE cannot confirm how many salt saturators were ordered by our contractors under our area maintenance contracts for 2015, 2016 and up to June 2017 as this data is not currently held. Following a change to HE strategy from July 2017, we can confirm that our area maintenance contractors ordered six salt saturators across Areas 7 and 13. As part of our new strategy, HE will be undertaking site surveys to obtain this data. HE will be happy to release this data once the surveys are complete.
3. This was an outsourced service to an Asset Service Contract and Managing Agent Contracts. The contract required the providers to order and maintain salt saturators on behalf of HE. These were outcome based contracts managed on outcome and not asset so HE does not hold this data. Therefore, HE cannot answer this question as the information is not held.
4. The main scope of the Maintenance and Response Contract (M&R) is to maintain the Affected Property. (Extract from M&R Service Information below)

1.2.2. In Providing the Service, the Contractor :

- (1) ensures that the Affected Property is maintained to no lesser standards than is appropriate for a highway of the character of the Affected Property, having regard to the availability of funding from time to time, and for use by the traffic, which is reasonably to be expected to use the Affected Property,

Salt saturators are part of the Affected Property and as such are in scope for the M&R to maintain

Extract from the Network Information below

1.17.1 Included Facilities

Details of facilities that shall be included as part of the Affected Property, notwithstanding that these facilities may be located outside the boundaries of the Affected Property.

For the purposes of this contract, the following shall be considered to be part of the Affected Property:

- Balancing ponds as detailed in Section 1.4.8 Balancing Ponds
- Structures under the custodianship of the *Employer* as listed in Section 1.14.1 List of Structures
- Pumps as detailed in Section 1.4.9 Ancillary Items
- All depots, compounds and storage facilities as listed in Section 1.16 *Employer's Premises*

1.16.2 Compounds, Depots and Storage Facilities

Compounds, depots and storage facilities are to be made available by the *Employer* for the use of the *Contractor*.

Refer to:

[NI 1.16.2 Compounds, Depots and Storage Facilities Index Sheet CONTRACT Rev 0.pdf](#)

[NI 1.16.2 Depot Plans with FM Boundaries and Building Occupation Details Rev 0](#)

A depot will be provided in the vicinity of Newark. At this stage exact details relating to the depot are unavailable. Tenderers should assume the depot will be of a similar size and have similar facilities to the other depots on the Affected Property.

For details relating to salt saturators refer to [NI 1.16.2 Area 7 Brine Production Saturators CONTRACT Rev 0.pdf](#)

The Service Information Annex G8.A (which details services for the Premises) Para 6.3.8 states:

“The *Contractor* provides reactive maintenance service as instructed by the *Service Manager*”
Highways England instructed reactive maintenance to the defective Salt Saturators under this clause, which lead to their replacement.

Highways England paid for this instruction under the below clause 26 in the Price list.

32	Annex G8.A 6.3.8	Estates Services - Reactive Repairs and Maintenance	The <i>Contractor</i> provides a reactive maintenance service.
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(All contract references and extracts are from the Area 7 M&R contract, however all M&R contracts have similar provisions).

A copy of the Public Interest Test is below for your information.

Request for 756,064 Information	
FOIA Exemption S.43 (1) & (2) – Commercial Interests	
<i>Factors supporting disclosure</i>	<i>Factors supporting non-disclosure</i>
<ul style="list-style-type: none"> • There is a public interest in disclosing information about public procurements to ensure there is transparency in the spending of public money and that public bodies are getting value for money when entering into contracts; After careful consideration during the PIT it was established that the HE do not actually hold the data requested in Q1 and for most of Q2. Where HE does hold some of the data, it was agreed that there was no valid reason to withhold this and that it can be released without prejudicing the commercial interests of our suppliers. • Q2 HE established that we do hold some of the data requested under Q2 but only from July 2017 onwards and this data can be released. Following a change to HE strategy from July 2017, we can confirm that our area maintenance contractors ordered 6 salt saturators across Areas 7 and 13. • Q3 There is a public interest in disclosing information about public procurements to ensure there is transparency in the spending of public money and that public bodies are getting value for money when entering into contracts. 	<ul style="list-style-type: none"> • It was initially considered that this FOI request was requesting information that was commercially sensitive as a new tender process is planned for January 2018, relating to salt saturators which the information request is linked to, and the requester has expressed an interest in the tender. As such if this request was answered Highways England would not be seen to be treating all suppliers equally. • Q1- None apply. Highways England (HE) has not directly ordered any salt saturators in 2015, 2016 and 2017. All salt saturators have been ordered directly via the Area Maintenance providers for that Area. HE has reviewed this strategy and from 2018 will be procuring salt saturators directly and this will be advertised to the market soon. Therefore, HE cannot answer this question as the information is not actually held. • Q2 HE cannot confirm how many orders for salt saturators were ordered by our contractors under our area maintenance contracts for 2015, 2016 and up to June 2017 as this data is not currently held. As part of our new strategy, HE will be undertaking site surveys to obtain this data. HE will be happy to release this data once the surveys are complete and we actually hold the data. Therefore, HE cannot answer this question as the information is not held. • Q3 This was an outsourced service to an Asset Service Contract and Managing Agent Contracts. The contract required the providers to order and maintain salt saturators on behalf of HE. These were an outcome based contract managed on outcome and not asset so HE do not hold this data. Therefore, HE cannot answer this question as the

<ul style="list-style-type: none"> • Q4 We established that we do hold this information and that it can be released. 	<p>information is not held.</p> <ul style="list-style-type: none"> • None apply.
<p>Conclusion: there are compelling arguments which support withholding the information which outweigh those supporting release.</p> <p>PIT Members:</p> <p>Date of PIT: 23/11/2017</p>	

If you have any queries about this letter, please contact me. Please remember to quote reference number 756, 064 in any future communications.

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If you require a print copy, please phone the Information Line on 0300 123 5000; or e-mail info@highwaysengland.co.uk. You should contact me if you wish to complain.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely