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of Defence

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[REDACTED]
Thank you for your email dated 29 December 2016. You asked:

In accordance with the "Freedom of Information Act 2000" can you please provide full details of each of the offers received to purchase HMS Illustrious together with a full explanation as to why the DSA felt these were not suitable in securing a future for her.

I am treating your email as a request for information in accordance with the Freedom of Information Act 2000 (FOIA). A search for the information has now been completed within the Ministry of Defence (MOD), and I can confirm that information in scope of your request is held.

In order to provide a meaningful response please note that I have repeated some of the information that I provided to you in my letter dated 8 December 2016 (reference: TO2016/0198).

HMS Illustrious retired from service with the Royal Navy on 1 August 2014. In October 2013 the Disposal Services Authority (DSA), part of MOD, announced a competition to seek innovative reuse bids to retain the ship in the UK, with part or all of it developed for heritage purposes. This competition was completed in November 2015. Six organisations initially expressed an interest but only three (Newcastle Gateshead Initiative; Hull City Council; and ELH Capital Ltd) submitted outline proposals. All three subsequently withdrew their interest.

In May 2016 the DSA launched a second competition to recycle the ship but which included a caveat to consider further heritage bids; no heritage bids were received. Four organisations expressed an interest in Recycling and although all four were invited to tender only two tenders were received (LEYAL; and Simsekler).

These two tenders were evaluated on the basis of highest compliant offer price received and resulted in this second competition being won by a Turkish company, LEYAL Ship Recycling Ltd. A contract, worth around £2million, was awarded to that company on 23 August 2016. The same day the MOD announced the contract award on the Gov. UK website:

<https://www.gov.uk/government/news/former-hms-illustrious-set-to-sail-on-her-final-voyage>

On 26 October 2016, the MOD received an outline proposal from a business consortium (represented by Artis Legal) to purchase the former HMS Illustrious as a heritage asset. The MOD considered the merits of the outline proposal and concluded that they were not sufficient to cancel the sale of the vessel to LEYAL. The offer on the table was to purchase Illustrious for £3 million but this was conditional on meeting a number of price and liability aspects including, for example, the reasonable costs of reimbursing Leyal and the restoration of equipment which had been removed from the ship.

With regard to the former, we could not predict what LEYAL might consider reasonable and in the case of the latter, this would simply be impractical. As part of the decommissioning process all equipment that was either classified (such as on-board communications) or could be used to support other MOD platforms or projects was removed. In particular, the ship's engines were dismantled early on in the process to provide spares support for in-service RN warships. It would be almost impossible, and it would certainly have taken a good deal of time, to quantify the cost of restoring the ship to anything like its original condition bearing in mind Illustrious was a non-operational vessel and had no power or means of propulsion.

In addition, any delay to the departure of Illustrious from Portsmouth would have increased the risk that Illustrious would remain in her current berth over the coming winter which would incur additional maintenance costs for the MOD. These costs, as a minimum, would ensure the structural, watertight and weather-tight integrity of the vessel as well as providing necessary security.

On 15 November 2016 the MOD received a second, and rival, proposal from another business consortium (represented by a member of 'Team Britannia') which the MOD would have had to treat in an equal and fair way, making some of the conditions suggested by the first consortium unworkable. Both proposals simply came too late in the process to be properly considered as viable options.

In summary, the offer from the first consortium was dependent on meeting the reasonable costs of reimbursing LEYAL if the current sale contract was cancelled, and the restoration of equipment removed from the ship which the MOD would be unable to achieve. Failure to complete either of these conditions would jeopardize any sale agreement with the consortium. The cost of restoration, at MOD expense, would erode and potentially completely remove any financial advantage to the MOD of accepting the consortium's offer.

Added to this, each consortium had yet to produce a fully costed, detailed business plan. The lack of maturity in either offer meant that the MOD could not be confident of a successful outcome and that to proceed on the basis of the information presented could only be done at considerable financial risk, irrespective of whether the matter was taken forward as an open competition or as a private treaty sale. Time was also an important factor; Illustrious needed to vacate her berth to make way for the arrival of the new Queen Elizabeth Class carriers.

After three years of actively considering a number of heritage bids and having launched two separate competitions for the sale of Illustrious, recycling was the only viable option available and, consequently, the MOD honoured its sale agreement with LEYAL.

As part of your request you asked '*...can you please provide full details of each of the offers received to purchase HMS Illustrious...*'

On 19 January 2017 I wrote to you to explain that we considered that elements of your request fell within the scope of the following qualified exemption: Section 43 (*Commercial Interests*). When a qualified exemption applies, a Public Interest Test has to be conducted to decide whether, in all the circumstances of the case, the public interest in maintaining the exemptions outweighs the public interest in disclosure.

We have completed this work and concluded that, with the exception of names, information about the details of the offers received falls entirely within the scope of the qualified exemption provided for at Section 43(2) (*Commercial Interests*) of the FOIA and has been withheld.

Section 43(2) provides that information is exempt if its disclosure would, or would be likely to prejudice the commercial interests of any organisation or person holding it, including the MOD and its contractors.

The FOI Act contains a presumption in favour of disclosure and there is a public interest in the release of information which supports the accountability of the MOD for its use of public money; for example, to demonstrate that value for money is being obtained for taxpayers and that effective contractual processes are in place. Greater transparency of decision making processes makes government more accountable and the release of information would allow an increased public understanding of how the procurement processes are undertaken in an open and honest way.

The Public Interest Test recognised that the release of details of individual bids for both competitions and similar information about the two outline proposals, could prejudice the MOD's ability to secure a fair market price from the sale of warships, particularly in the re-use category, in any future competitions. More widely, releasing this information could weaken the MOD's position in a competitive environment by revealing market sensitive information which would be of use to potential contract bidders. It could also result in companies generally being deterred from sharing commercially sensitive information with the MOD if they are unsure about whether their information would be protected.

Accordingly, the Public Interest Test concluded that the release of this information would prejudice the commercial interests of the MOD and that the balance of the arguments lay in favour of withholding the information to protect the commercial interests of the MOD and its customers.

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 Information Rights Compliance team, 1st 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.org.uk>.

Yours Sincerely,



DE&S Secretariat