



Our Reference:

**BY EMAIL ONLY**

10 March 2015

Dear

**Request for Information**

Thank you for your email dated 10 February 2015 requesting information on specific ICT contract(s) for Server Hardware Maintenance, Server Virtualisation License and Maintenance and Storage Area Network Maintenance/Support. For ease of reference your request is below:

*I would like to submit a Freedom of Information Request relating to specific ICT contract(s) for Server Hardware Maintenance, Server Virtualisation License and Maintenance and Storage Area Network Maintenance/Support which may include:*

- *Server Hardware Maintenance- contract relating to the support and maintenance of the's organisations servers.*
- *Virtualisation Licensing (VMware, Solaris, Unix, Linux, Windows Server)-*
- *Virtualisation Maintenance/Support (VMware, Solaris, Unix, Linux, Windows Server)*
- *Storage Area Network Maintenance/Support (EMC, NetApp etc)*

***For each of the types of server ICT contracts above can you please send me the following data types:***

1. ***Contract Title:***
2. ***Contract Type: Please input one the type of contract from above e.g. Hardware Maintenance, Virtualisation Licensing, Virtualisation Maintenance/Support, Storage Area Network Maintenance***
3. ***Existing/Current Supplier:***
4. ***Hardware Brand: Please state the hardware or software brand related to the contract with supplier e.g. Hardware Maintenance could be Dell, IBM etc***
5. ***Operating System / Software(Platform): (Windows, Linux, Unix, VMWare etc.) the brand name relating to the contract.***
6. ***Annual Average Spend: (For the whole duration of the contract, if the total value sent is per annum please state this in the response)***
7. ***Contract Duration: (Please can you also include notes if the contract includes any contract extension periods.)***
8. ***Contract Expiry Date:***
9. ***Contract Review Date: (An approximate date of when the organisation is planning to review this particular contract.)***
10. ***Brief Contract Description: I require a brief description of the service provided under this contract.***

11. **Internal Contact:** *(The person from within the organisation that is responsible for reviewing and renewing this particular contract. Please include their full name, job title, direct contact number and direct email address.)*

*If there is more than one supplier for these contracts can you please split the contract individually for each supplier. So the information above which I am requesting is for each supplier.*

*If this service is part of a managed contract please can you send me the contract information for this managed service including Hardware Brand, Number of Users, Operating System, and contact details of the internal contact responsible for this contract.*

We have provided you with a spreadsheet (attached) which details the information you have requested. Each contract is on a new tab within the spreadsheet. Whilst we have been able to provide the majority of the information to you, we have determined that disclosing the annual average spend would cause harm to both the Homes and Communities Agency (HCA) and the third parties who have entered into a contract with us. Therefore this information has been whittled under Section 43(2) of the Freedom of Information Act 2000 (FOIA).

### **Section 43(2) – Prejudice to commercial interests**

Section 43(2) of the Act permits a public authority to withhold information where disclosure “would, or would be likely to, prejudice the commercial interests of any party,” including the public authority holding the information.

The HCA determines that harm would arise from disclosure of the withheld information as it would compromise the interests of both the HCA and the third parties involved in these specific contracts (namely Calyx, VMware and Fujitsu). Disclosure would harm the HCA’s interests by undermining our ability effectively negotiate contract values to ensure the best value for money and/or best contractor to fulfil the contracts. Similarly, if disclosed, this information would be prejudicial to the third parties in the market place as price transparency would disadvantage them commercially. We have concluded that Section 43(2) is engaged for the information that would cause this type of prejudice if released. Section 43(2) is a qualified exemption, which means a Public Interest Test is required in order for it to be maintained. A Public Interest test involves balancing the weight of arguments for and against disclosure.

### **Public Interest Test – Factors in favour of disclosure**

Disclosing the requested information would promote the accountability and transparency of the HCA as well as providing increased information about the application of public funds. This in turn provides a basis for a more informed public debate about the value of money being obtained by the HCA.

### **Public Interest Test – Factors in favour of non-disclosure**

Disclosure of the information would be likely to effect the HCA’s ability to operate effectively in a competitive market as it would disclose how much value we put on a contract, therefore creating a disadvantage the next time we do a tender exercise for the same contract. Potential bidders could base their proposed costs on the current value which would diminish our ability to negotiate.

Further, disclosure of the contract value would impact on the third parties ability to compete in a marketplace, placing them at a commercial disadvantage as other bidders would be able to under bid them when competing for a contract with the HCA. It would also affect their negotiations with other companies they currently work with/may wish to work with to work with as the values are specific to the contract entered into with the HCA.

It is not in the public interest to diminish a public authority's ability to be competitive in a commercial market by releasing information as the result of an FOIA request when it is seeking to achieve best value for the public purse. It is also not in the public interest for disclosure to harm the interests of third parties as this would also affect who and how the HCA works with contractors in the future.

We have, therefore, concluded that the balance of the public interest favours non-disclosure of this information at this time. We would, however, stress that the public interest is as ever changing concept and the arguments may change over time.

If you have any questions regarding this response or any further queries you can contact us at the following addresses and quote your unique reference number found at the top of this letter:

**Email:** [mail@homesandcommunities.co.uk](mailto:mail@homesandcommunities.co.uk)

**Mail:** Information Access Officer

Homes and Communities Agency

Fry Building

2 Marsham Street

London

SW1P 4DF

If you are unhappy with the way Homes and Communities Agency has handled your request you may ask for an internal review. You should contact

Head of Legal Services

Homes and Communities Agency

Fry Building

2 Marsham Street

London

SW1P 4DF

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

Homes and Communities Agency

Fry Building, 2 Marsham Street, London, SW1P 4DF

0300 1234 500

homesandcommunities.co.uk

Yours sincerely

Naomi McMaster  
Information Access Officer  
Homes and Communities Agency