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**Our ref:** RFI 6728  
**Date:** 17 July 2014

Dear

## **REQUEST FOR INFORMATION: LIST OF EfW PROJECTS AND THEIR RAG RATINGS**

Thank you for your email of 9 July 2014 asking for a list of all Energy from Waste (EfW) projects (under construction, approved and proposed) that it is referred to in 'Forecasting 2020 Waste Arisings and Treatment Capacity' report dated October 2013, alongside the RAG risk assessment for each project.

As you are aware, we have handled your request under the Environmental Information Regulations 2004 (EIRs). The EIRs apply to requests for environmental information, which is a broad category of information defined in regulation 2 of the EIRs. Public authorities are required to handle requests for environmental information under the EIRs. They give similar access rights to the Freedom of Information Act 2000 (FOIA).

We have published on our website a list of Energy from Waste (EfW) projects which provides information on the local authority and merchant Residual Waste Treatment projects. You can view the list via this hyperlink:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/266438/project\\_list\\_EIR16Dec.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266438/project_list_EIR16Dec.pdf)

Some information has, however, been withheld and our reasons for this are explained below.

### Regulation 12(5)(e) – commercial confidentiality

Parts of the information on landfill diversion projects have been withheld under regulation 12(5)(e) of the EIRs because of commercial confidentiality. These parts relate to the Red-Amber-Green (RAG) ratings and the associated Delivery Adjustment Rates. This information is



being withheld under this exception, Regulation 12(5)(e) relating to commercial confidentiality, to protect the legitimate economic interests of the infrastructure projects, and because disclosure would be likely to significantly damage the interests of the projects involved.

In applying this exception we have had to balance the public interest in withholding the information against the public interest in disclosure.

We recognise that there is a public interest in disclosing information held by Defra on local authority and merchant landfill diversion projects and their associated Delivery Adjustment Rates that are used to forecast waste treatment capacity. For this reason we have provided a large amount of the information on our website (as mentioned above).

On the other hand, there is also a strong public interest in withholding information because for their part, those who have dealings with Defra can do so in the assurance that confidences will be respected where there is no overriding public interest to breach that confidence. Furthermore, it would not serve the interest of projects if they did not achieve best value for money or if the finance needed for the success of the projects is put at risk due to release of commercially sensitive/confidential information.

#### Regulation 12(4)(e) – disclosure of internal communications

Information covered by this exception includes correspondence between civil servants in Defra, correspondence between civil servants and Defra Ministers, and correspondence between Defra civil servants and Ministers and civil servants and Ministers in other government departments. As the RAG ratings are solely used within Defra to judge the progress of different projects, we have applied this exception.

It is understood that there is a strong public interest in disclosure as it would inform the public of internal discussions and the process by which decisions are made in Government. This is a high profile area, and it is important that the Department is transparent in the decisions taken, particularly where these decisions affect funding for local waste infrastructure projects.

Alternatively, there is a strong public interest in the need to provide a safe space where officials are free to consider all views and ask what are at times uncomfortable questions with no repercussions should that approach not be adopted. This retains the impartiality of the civil service, which might be undermined if advice was routinely made public as there is a risk that officials could come under

political pressure not to challenge ideas in the formulation of policy, thus leading to poorer decision making, which would not be in the public interest.

Therefore, we have concluded that, in all the circumstances of the case, some information should be withheld under the exceptions at regulations 12(4)(e) and 12(5)(e) of the EIRs.

In keeping with the spirit and effect of the EIRs, all information is assumed to be releasable to the public unless exempt. The information released to you may now be published on our website together with any related information that will provide a key to its wider context.

I attach Annex A, which explains the copyright that applies to the information being released to you.

I also attach Annex B giving contact details should you be unhappy with the service you have received.

Finally, you may wish to note that we published an updated analysis of the 'Forecasting 2020 Waste Arisings and Treatment Capacity' report in October 2013. You can view this via the following hyperlink:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/251523/pb14031-forecasting-2020-waste-arisings-norfolk-131017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251523/pb14031-forecasting-2020-waste-arisings-norfolk-131017.pdf)

If you have any queries about this letter please contact the WIDP Programme Office.

Yours sincerely

WIDP Programme Office

[widp.programmeoffice@defra.gsi.gov.uk](mailto:widp.programmeoffice@defra.gsi.gov.uk)

## Annex A

### Copyright

The information supplied to you continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs or logos) can be also used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

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## Annex B

### Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: [requestforinfo@defra.gsi.gov.uk](mailto:requestforinfo@defra.gsi.gov.uk)) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our [website](#).

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

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