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Our Reference:

[REDACTED]

Date:

9 February 2015

Dear [REDACTED]

Request for Information

Thank you for your email of 19 January 2015. You asked:

This is a brief follow up to FOI request 2014/05519, which you responded to (helpfully) on 29/10/14 – just to ask for further information not covered and double check facts about procurement of uniforms and other clothing items. Hopefully, they're mostly yes/no answers or a few words on policy details.

Prime contractors

Question 1. *Could you provide names and addresses of prime contractors? (NHS Supply Chain do, so presumably there aren't any barriers, legal or otherwise). If you could, please send names and addresses of the main suppliers of main items only, sourced in the Far East only, rather than comprehensive list for all garment suppliers.*

Question 2. *If you can't provide details of main prime contractors to the public, could you briefly explain the reasons, and state whether you could provide this information, (in confidence if necessary), to non-governmental organisations for the purposes of monitoring working conditions in their manufacturing suppliers in the Far East?*

Question 3: *can you state the number of prime contractors that supply uniforms or clothing to the MOD? If there are many, just an approximate figure would do.*

Manufacturing locations in the Far East

The first FOI stated that 'The MOD does not hold a list of countries used by our prime contractors to manufacture clothing items.' But also that 'The majority of MOD uniform garments are currently sub-contracted by our prime contractors to the Far East: notably China.' Presumably prime contractors informed the MOD of this and could provide more information if asked for.

Background: as I understand the legal situation, based on established practice, public authorities cannot legally require that their suppliers publicly disclose the locations of their manufacturers, (due to commercial confidentiality), but they can require that suppliers disclose the locations to the authority, in confidence, to enable the authority to arrange audits. LOCOG did this for the 2012 Olympics and all regional and municipal authorities in Sweden do the same for relevant product groups. LOCOG also requested that suppliers publicly disclose manufacturing locations, and 77% voluntarily did this.

Your previous FOI response stated that 'the MOD relies on the contractor to ensure conditions are achieved within the policy.'

Question 4. I presume that this means that you cannot provide names and addresses of clothing manufacturers in the Far East – because your existing contract did not include this as a condition.

a) If this is the case please just confirm this.

b) Alternatively, if you can disclose manufacturing locations, could you disclose them to the general public, (including me now), or only to NGO in confidence for the purpose of monitoring compliance with ILO core conventions and local laws?

Number of manufacturers used in the Far East

Question 5: could you state how many Far East manufacturers are used by prime contractors to supply MOD uniforms? (Just an approximate number, : eg, 5-10 factories, 30-40, Over 100 - for main items only if there are too many, like the 'top four' listed in the original FOI response.

Contract duration

Presumably contracts for the supply of clothing last for limited amount of time, possibly with options to extend if mutually agreed. Contracts for other public organisations seem to last for 2-3 years, sometimes with an option to extend for a year.

Question 6: Is there a typical contract duration for clothing/ uniforms? If they vary a lot it would just be useful to know the range from shortest to longest, eg, from 2-10 years.

Auditing methods & industry certification/accreditation schemes used

There are several industry certification or accreditation schemes which typically monitor compliance with ILO core conventions and local laws on minimum wages etc; including SA8000. the Fair Labor Organisation, Fair Wear Foundation; WRAP. Auditing methods vary considerably. The response to the original FOI stated that the MOD 'does adhere to the Government Buying Standards and complies with the requirements of SA8000 from the International Labour Organisation (ILO).' The SA8000 is not 'from' the ILO, (which is a

UN agency), but it does monitor compliance with ILO conventions like other industry auditing schemes implementing Corporate Social Responsibility (CSR) codes.

Question 7: Which CSR certification/accreditation schemes are used to monitor compliance with employment rights etc in the Far East. Is it just SA8000? If others are used, please just provide a brief list. There aren't many.

Question 8: Do MOD contracts require any of the following auditing methods, (which may or may not be used by CSR accreditation schemes).

- a) Consulting workers without managers present
- b) Consulting workers off site rather than on-site
- c) Consulting local trade unions or non-governmental organisations such as Human Rights organisations.

I presume the answer is no to all but I need to check. Even if contracts don't require these methods, accreditation schemes may use them anyway. If this is the case for the schemes MOD contractors use then basic details would help – just which methods are typically used.

Question 9: Some public authorities require their prime contractors, by contract, to take implement the following policies with their manufacturers to help to ensure employment rights are upheld. Presumably the MOD like many authorities does not require these strategies by contract, in which case please just confirm this for each or all. They are not all required by CSR accreditation schemes.

- a) Manufacturer required to comply with ILO core conventions and local employment laws, by condition of contract, not just code of conduct, with penalties or consequences for breaches.
- b) Manufacturer required, by contract, to inform all workers of their rights by means such as notices in wage packets and public notices
- c) Manufacturer required, by contract, to require the same standards, by contract, with their subcontractors and second tier suppliers of accessories and raw materials.
- d) Manufacturer required, by contract, either not to use manufacturing subcontractors at all, or only audited ones.
- e) Manufacturer required, by contract, to inform workers of greivance mechanism independent of managment.

Supply Chain monitoring

Monitoring conditions further upstream in the supply chain than final manufacturers is difficult.

Question 10: presumably the MOD does not require prime contractors or their manufatcurers to audit subcontractors and second tier suppliers of accessories and raw materials? If you do, basic information would be useful about numbers and methods,

MOD monitoring

I understand that the MOD 'relies on the contractor to ensure conditions are achieved within the policy.' But the original FOI also states that 'At each stage of the competition the MOD requires evidence of compliance from those companies interested in securing the specified contract. Compliance is measured through personal observations at the contractor or sub-contractor premises, also audit reports are utilised at contract review meetings.'

Stages of the competition and forms of evidence

Tender documents are public documents, to comply with regulations on transparency and equal treatment. Presumably contract clauses for clothing are standard, based on Government Buying Standards.

Question 11. *Can you provide one copy of standard contract documents for clothing/uniforms - specifically any 'ethical' clauses in the following documents?*

- 1. Pre-qualification questionnaire*
- 2. Invitation to tender, including evaluation/award*
- 3. Contract performance conditions:*

These documents may explain the following questions in full. If they don't please provide information on anything not covered.

Question 12: *what kind of evidence is required at each stage, if relevant? For example:*

a) Pre-qualification questionnaire: *presumably if ethical criteria are included it's just as a statement of standards and expectations, which would only apply to the winning bidder post award?*

b) Invitation to tender: *does this require or request an independent audit in advance, or within 6/12 months of award as a contract condition?*

c) Award Criteria/contract performance conditions: *Government Buying Standards for textiles are actually suggested award criteria, rather than contract conditions, surprisingly, but with no legal guidance or suggested weightings unlike for environmental factors. Public organisations tend to use them as contract conditions, understandably.*

Question 13: *Presumably the MOD does too?*

Contract performance conditions

Regarding the first FOI response that, 'Compliance is measured through:

- a) 'Personal observations at the contractor or sub-contractor premises*

Question 14: *are these observations by prime contractor employees or accreditation scheme staff?*

- b) 'Also audit reports are utilised at contract review meetings.'*

Contract review meetings must be between MOD staff and primary contractors.

Question 15: *If audit reports are utilised, this means that MOD staff must read at least some of them (of many, probably prioritised by volume and risk), to evaluate if contract standards are being complied with. So MOD staff are implementing contract performance 'monitoring' conditions in detail – at least for some contracts - and not just checking that a factory has been accredited.*

a) *Is this correct?*

b) *If it is, roughly how many factories' standards were reviewed in a recent year? (Or proportion of the whole)*

The original FOI: stated that 'The MOD does not hold information on any breaches of the ILO requirements..' As MOD staff do review audit reports, this must mean that no breaches have been found.

Questions 16: *please just confirm that no breaches have been found.*

An alternative scenario might be that contracts require the prime contractor to report breaches and none have been reported to MOD staff - in formal contract performance reviews meetings or otherwise.

Questions 17: is that the case?

Apologies for being picky but I need to get my facts straight and detail is crucial. The Defence Clothing Team must know the answers to these questions. Hopefully providing them will be relatively quick but as I mentioned before if clarification or simplification would help you're welcome to email me.

I shall address you questions in turn:

Question 1. Could you provide names and addresses of prime contractors? (NHS Supply Chain do, so presumably there aren't any barriers, legal or otherwise). If you could, please send names and addresses of the main suppliers of main items only, sourced in the Far East only, rather than comprehensive list for all garment suppliers.

Information relating to our contracts is available in the public domain, published on Contracts Finder. The link is www.gov.uk/contracts-finder. However, below is a list of our prime contractors:

1	Iturri S.A.	ITURRI Central, Avda. Roberto Osborne 5., 41007, SPAIN	DC2B/2607	Supply of Combat Boots
			DC2B/2508	Service (Non Combat) Footwear
			DC2A/2001	Waterproof Garments
			DC1BESL/6066	Supply of RN Between Decks Firefighting PPE
			DC2B/2579	Ops Trouser Belt
			DC/04047	Gloves, Chemical Protective
2	Haix	HAIX-SCHUHE, Produktions- und Vertriebs GmbH, Auhofstrasse 10, 84048 Mainburg, GERMANY	DC2B/2606	Supply of Combat Boots

3	Cooneen Defence Ltd.	23 Cooneen Road, Fivemiletown, County Tyrone, Northern Ireland, BT75 0NE	DC2A/2015	Supply of Shirts
			DC/4008	Ceremonial and Parade Headwear Berets
			DC/04018	Army No2 dress
			DC/04031	Socks Various
			DC/04055	Combat Garments
4	Turner Virr & Co Ltd	6 Isabella Road, Garforth, West Yorkshire, LS25 2DY	DC/04003	Manufacture and Supply of Army No.1 Dress Uniforms
			DC3A/3006	Royal Hospital Chelsea
			DC/04024	Kilts, trews and tartan items
			DC/04038	RN/RM Direct Supply Parawear
			DC/04027	RAF Direct Supply Parawear
5	YDS	Goliath House, Chain Bar Road, Cleckheaton, West Yorkshire, BD19 3QF	DC2B/2608	Supply of Combat Boots
			DC/04013	Military & Civilian Safety Footwear
6	The Wyedean Weaving Co Ltd	Bridgehouse Mill, Haworth, West Yorkshire, BD22 8PA	DC/04005	Ceremonial Accoutrements
			DC/04035	Badges & Buttons

Some of these prime contractors may sub-contract an element of their manufacture to suppliers based in the Far East. As we explained in our previous response to you, we do not hold a list of countries used by our prime contractors to manufacture clothing. This is a matter for the prime, and will be subject to change during the course of a contract in any case.

Question 2. If you can't provide details of main prime contractors to the public, could you briefly explain the reasons, and state whether you could provide this information, (in confidence if necessary), to non-governmental organisations for the purposes of monitoring working conditions in their manufacturing suppliers in the Far East?

See response to (1) above. Information relating to our prime contractors is already in the public domain, published on Contracts Finder. The link is www.gov.uk/contracts-finder.

Question 3: can you state the number of prime contractors that supply uniforms or clothing to the MOD? If there are many, just an approximate figure would do.

The number of contractors that supply uniforms or clothing to the MoD is currently 48.

Manufacturing locations in the Far East

The first FOI stated that '*The MOD does not hold a list of countries used by our prime contractors to manufacture clothing items.*' But also that '*The majority of MOD uniform garments are currently sub-contracted by our prime contractors to the Far East: notably China.*' Presumably prime contractors informed the MOD of this and could provide more information if asked for.

Background: as I understand the legal situation, based on established practice, public authorities cannot legally *require* that their suppliers *publicly* disclose the

locations of their manufacturers, (due to commercial confidentiality), but they can require that suppliers disclose the locations to the authority, in confidence, to enable the authority to arrange audits. LOCOG did this for the 2012 Olympics and all regional and municipal authorities in Sweden do the same for relevant product groups. LOCOG also *requested* that suppliers publicly disclose manufacturing locations, and 77% voluntarily did this.

Your previous FOI response stated that *'the MOD relies on the contractor to ensure conditions are achieved within the policy.'*

Question 4. I presume that this means that you cannot provide names and addresses of clothing manufacturers in the Far East – because your existing contract did not include this as a condition.

a) If this is the case please just confirm this.

This is the case.

b) Alternatively, if you can disclose manufacturing locations, could you disclose them to the general public, (including me now), or only to NGO in confidence for the purpose of monitoring compliance with ILO core conventions and local laws?

See response to question 1.

Number of manufacturers used in the Far East

Question 5: could you state how many Far East manufacturers are used by prime contractors to supply MOD uniforms? (Just an approximate number, : eg, 5-10 factories, 30-40, Over 100 - for main items only if there are too many, like the 'top four' listed in the original FOI response.

We do not have this information – see response to question 1.

Contract duration

Presumably contracts for the supply of clothing last for limited amount of time, possibly with options to extend if mutually agreed. Contracts for other public organisations seem to last for 2-3 years, sometimes with an option to extend for a year.

Question 6: Is there a typical contract duration for clothing/ uniforms? If they vary a lot it would just be useful to know the range from shortest to longest, eg, from 2-10 years.

The duration for the majority of Defence Clothing contracts is 4 years.

Auditing methods & industry certification/accreditation schemes used

There are several industry certification or accreditation schemes which typically monitor compliance with ILO core conventions and local laws on minimum wages etc; including SA8000, the Fair Labor Organisation, Fair Wear Foundation; WRAP. Auditing methods vary considerably. The response to the original FOI stated that the MOD *'does adhere to the Government Buying Standards and complies with the requirements of SA8000 from the International Labour Organisation (ILO).'* The

SA8000 is not 'from' the ILO, (which is a UN agency), but it does monitor compliance with ILO conventions like other industry auditing schemes implementing Corporate Social Responsibility (CSR) codes.

Question 7: Which CSR certification/accreditation schemes are used to monitor compliance with employment rights etc in the Far East. Is it just SA8000? If others are used, please just provide a brief list. There aren't many.

This is a matter for the prime contractor to determine. Recent Invitations to Tender have required bidders to comply with SA8000 or equivalent.

Question 8: Do MOD contracts require any of the following auditing methods, (which may or may not be used by CSR accreditation schemes).

- a) Consulting workers without managers present**
- b) Consulting workers off site rather than on-site**
- c) Consulting local trade unions or non-governmental organisations such as Human Rights organisations.**

I presume the answer is no to all but I need to check. Even if contracts don't require these methods, accreditation schemes may use them anyway. If this is the case for the schemes MOD contractors use then basic details would help – just which methods are typically used.

No, that is a matter for the prime contractor to determine.

Question 9: Some public authorities require their prime contractors, by contract, to implement the following policies with their manufacturers to help to ensure employment rights are upheld. Presumably the MOD like many authorities does not require these strategies by contract, in which case please just confirm this for each or all. They are not all required by CSR accreditation schemes.

- a) Manufacturer required to comply with ILO core conventions and local employment laws, by condition of contract, not just code of conduct, with penalties or consequences for breaches.**

Prime contractors are required, as a condition of contract, to comply with applicable employment legislation of those jurisdictions where the contract is being performed. Should we become aware of non-compliance, we would consider contract termination and supplier exclusion in accordance with the Public Procurement Regulations.

- b) Manufacturer required, by contract, to inform all workers of their rights by means such as notices in wage packets and public notices.**

See response to 9a above.

- c) Manufacturer required, by contract, to require the same standards, by contract, with their subcontractors and second tier suppliers of accessories and raw materials.**

Prime contractors are required, as a condition of contract, to take reasonable efforts to reflect the conditions of the contract with any sub-contracts they may have, throughout their supply chain as above (9a).

d) Manufacturer required, by contract, either not to use manufacturing subcontractors at all, or only audited ones.

This is a matter for the prime contractor to determine. Not required as a condition of contract.

e) Manufacturer required, by contract, to inform workers of grievance mechanism independent of management.

This is a matter for the prime contractor to determine. Not required as a condition of contract.

Supply Chain monitoring

Monitoring conditions further upstream in the supply chain than final manufacturers is difficult.

Question 10: presumably the MOD does not require prime contractors or their manufacturers to audit subcontractors and second tier suppliers of accessories and raw materials? If you do, basic information would be useful about numbers and methods,

See response to 9c above.

MOD monitoring

I understand that the MOD 'relies on the contractor to ensure conditions are achieved within the policy.' But the original FOI also states that 'At each stage of the competition the MOD requires evidence of compliance from those companies interested in securing the specified contract. Compliance is measured through personal observations at the contractor or sub-contractor premises, also audit reports are utilised at contract review meetings.'

Stages of the competition and forms of evidence

Tender documents are public documents, to comply with regulations on transparency and equal treatment. Presumably contract clauses for clothing are standard, based on Government Buying Standards.

Question 11. Can you provide one copy of standard contract documents for clothing/uniforms - specifically any 'ethical' clauses in the following documents?

Copies of Standard Contracting (SC) templates attached:

SC1 = Supply of Less Complex Requirements <£100K

SC2 = Supply of Goods and Associated Services <£5M

Contracts over £5M will have narrative terms and conditions, which vary according to the requirement. Recent contracts have included clauses on the subject of Child Labour, Minimum Age and Sustainable Procurement, see below. Defence condition 550 (Child Labour and Employment Law) is attached for information.

1. Pre-qualification questionnaire: There is no standard Pre-Qualification Questionnaire (PQQ), as this will vary according to the requirement, and is commercially sensitive information. The PQQ is used to downselect tenderers on the basis of their economic and financial capacity, and their professional and technical capacity to perform the contract.

Recent PQQs have required tenderers to hold SA 8000, ISO 9001 and ISO 14001 accreditation or equivalent, or to be working towards achieving these, or to have in-house policies which cover the scope. Tenderers have also been asked to provide evidence of their commitment to Corporate Social Responsibility (CSR) and sustainable procurement, which is taken into account at the PQQ stage.

2. Invitation to tender, including evaluation/award:

There is no standard Invitation to Tender, or evaluation / award criteria, as these will vary according to the requirement and is commercially sensitive information. Ethical questions are asked at the PQQ stage, see response to 11 (1) above.

3. Contract performance conditions:

There is no standard set of contract performance conditions (Key Performance Indicators) as these will vary according to the requirement.

Child Labour and Employment Law

a. The Contractor shall comply in all material respects with Child Labour Legislation as defined in DEFCON 550 (Edn 02/14) and applicable employment legislation in any and all jurisdictions in which the Framework Agreement is being performed, and shall place these same obligations on any of its subcontractors, and ensure that those subcontractors do likewise for any and all sub-contracts placed in performance of this Framework Agreement.

b. The Contractor shall report to the Authority's Commercial Officer any circumstances where it uncovers a breach, or suspected breach, of Child Labour Legislation and/or international standards relating to working conditions as soon as reasonably practicable after the Contractor becomes aware of that breach or suspected breach, including where that breach, or suspected breach, has been committed by a subcontractor or sub-contractor in the supply chain.

Minimum age

No person under the age of 14, or the legal minimum, if higher, shall be employed or otherwise used by the Contractor in any way to meet the requirements of the Contract. In addition a Clause similar to this must be included in all subcontracts relating to the Contract. The Contractor should take all reasonable steps to ensure that his subcontractors comply with this condition.

Sustainable Procurement - Legislative Requirements

The Contractor shall take all reasonable steps to procure the observance of [the economic, social and environmental legislation] related to the subject matter or the execution of the contract by any servants, employees or agents of the Contractor and any subcontractors engaged in the performance of the Contract.

If the Contractor becomes aware of any prosecution or proceedings, for criminal breaches of [the economic, social and environmental legislation] related to the subject matter or the execution of the Contract, against the Contractor, any servants, employees or agents of the Contractor and any subcontractors engaged in performance of the Contract, the Contractor shall immediately notify the Authority at the address specified in the Contract.

These documents may explain the following questions in full. If they don't please provide information on anything not covered.

Question 12: what kind of evidence is required at each stage, if relevant? For example:

a) Pre-qualification questionnaire: presumably if ethical criteria are included it's just as a statement of standards and expectations, which would only apply to the winning bidder post award?

See response to 11 (1) above.

b) Invitation to tender: does this require or request an independent audit in advance, or within 6/12 months of award as a contract condition?

This will depend on the requirement.

c) Award Criteria/contract performance conditions: Government Buying Standards for textiles are actually suggested award criteria, rather than contract conditions, surprisingly, but with no legal guidance or suggested weightings unlike for environmental factors. Public organisations tend to use them as contract conditions, understandably.

Question 13: Presumably the MOD does too?

Specifications for clothing to be procured will comply with mandatory Government Buying Standards relevant to product groups covered, e.g. textiles. The specifications will be included with the Invitation to Tender and will be incorporated as a contract schedule.

Compliance with Government Buying Standards may also be taken into account at the PQQ or Invitation to Tender stages of the procurement, although this will vary according to the requirement.

Contract performance conditions

Regarding the first FOI response that, 'Compliance is measured through:

a) 'Personal observations at the contractor or sub-contractor premises

Question 14: are these observations by prime contractor employees or accreditation scheme staff?

This is a matter for the prime contractor to determine.

b) 'Also audit reports are utilised at contract review meetings.'

Contract review meetings must be between MOD staff and primary contractors.

Question 15: If audit reports are utilised, this means that MOD staff must read at least some of them (of many, probably prioritised by volume and risk), to evaluate if contract standards are being complied with. So MOD staff are implementing contract performance 'monitoring' conditions in detail – at least for some contracts - and not just checking that a factory has been accredited.

a) Is this correct?

Contract Review meetings are held between MoD staff and the prime contractors. We reserve the right to request any audit reports that may be available, and will ask the prime to confirm what steps they have taken to comply with sustainable procurement and CSR. If we have particular concerns or issues, we may accompany the prime contractor to visit their sub-contractors' factories including those in the Far East. In addition, the prime contractor is obliged to inform MoD of any breaches of sustainability legislation – see contract clause at 11 (3) above.

b) If it is, roughly how many factories' standards were reviewed in a recent year? (Or proportion of the whole)

We do not hold central data on the number of standards reviewed on an annual basis.

The original FOI: stated that 'The MOD does not hold information on any breaches of the ILO requirements..' As MOD staff do review audit reports, this must mean that no breaches have been found.

Questions 16: please just confirm that no breaches have been found.

No breaches have been found in contracts that DES Logistics Commodities Defence Clothing manages. The Defence Clothing team does not have access to information relating to any breaches across the wider MOD.

An alternative scenario might be that contracts require the prime contractor to report breaches and none have been reported to MOD staff - in formal contract performance reviews meetings or otherwise.

Questions 17: is that the case?

No breaches have been reported to DES Logistics Commodities Defence Clothing. The Defence Clothing team does not have access to information relating to any breaches across the wider MoD.

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.gov.uk>.

Yours sincerely,

A large black rectangular redaction box covering the signature of the sender.A black rectangular redaction box covering the name of the sender.

DE&S Secretariat