



Single Source  
Regulations Office

Single Source Regulations Office  
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**[REDACTED]**

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E [enquiries@ssro.gov.uk](mailto:enquiries@ssro.gov.uk)

[www.gov.uk/ssro](http://www.gov.uk/ssro)

Ref: SSRO/RFI 047  
3 September 2021

Dear [REDACTED],

**Subject: Freedom of Information request**

I refer to your email of 11 August 2021 in which you asked for the following information to be provided about each qualifying defence contract and qualifying sub-contract in a tabular form:

- a) MOD year contract let
- b) Contracted price
- c) Contractor annual revenue
- d) Contracted capital servicing adjustment (CSA)
- e) Annual revenue of the contractor's GUO
- f) CSA of the contractor's GUO

We have considered your request under the Freedom of Information Act 2000 (the FOI Act). I confirm that we hold (a), (b) and (d) to the extent that this information has been reported by contractors in reports on qualifying contracts. We hold (c), (e) and (f) for contractors and GUOs included in the comparator groups for the annual baseline profit rate assessment in the relevant year.

You have asked for the categories (a) to (f) to be provided in rows by reference to each, anonymised qualifying contract. We consider that, as requested, the information is exempt from disclosure due to the application of exemptions in sections 44(1)(a) and 43(2) of the FOI Act.

**Disclosure prohibited by or under an enactment (section 44)**

Information is exempt under section 44(1)(a) of the FOI Act if its disclosure is prohibited by or under any enactment. Relevant to your request, paragraph 2(1) of Schedule 5 of the Defence Reform Act 2014 (the "DRA") prohibits the disclosure of information to which Schedule 5 applies. This includes the CSA for each contract (category (d)) on the basis that it was obtained by the SSRO pursuant to Part 2 of the DRA, it relates to the affairs of the defence contractors concerned and it is information of a kind specified in regulation 56(3)(a) of the Single Source Contract Regulations 2014 (the Regulations).

The DRA permits disclosure of information to which Schedule 5 applies in circumstances specified in paragraphs 3 to 5 of the schedule, but we do not consider that those circumstances apply to your request. You suggested that the data could be provided in anonymised form, as permitted by paragraph 5(1)(l) of Schedule 5, but the relationship you have required between the categories of information for each qualifying contract is such that removing the contract names will not provide effective

anonymisation. We refer to the following factors which will prevent effective anonymisation of the CSA data:

- You have asked for the CSA for each qualifying contract.
- You have also requested the annual revenue of the corresponding contractor and its GUO, which can be matched with publicly available information to identify the contractor.
- You have asked for the year and price of each contract, which can be used to identify the contract, using published information about contract awards, knowledge of the defence industry and the identity of the contractor.

We cannot see a way to provide you with the data set you have requested without contravening the prohibition on disclosure in respect of the CSA data for each contract. We conclude that the exemption in section 44(1)(a) of the FOI Act applies to the CSA data. This is an absolute exemption under the FOI Act and there is no requirement to consider application of a public interest test.

### **Prejudice to commercial interests (section 43)**

Information is exempt under section 43(2) of the FOI Act if its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the SSRO). The data held by the SSRO in categories (c), (e) and (f) has been downloaded from the Orbis database in accordance with a contract entered into between the SSRO and Bureau van Dijk Electronic Publishing Limited (BvD). The contract prevents the SSRO from redistributing that data to a third party and doing so would involve the SSRO in an actionable breach of contract. We consider that disclosure would prejudice BvD's commercial interests, as they may otherwise sell the data in question, and the SSRO's commercial interests, as we may be exposed to financial claim. In the circumstances, the exemption in section 43(2) of the FOI Act applies in relation to categories (c), (e) and (f).

The exemption relied upon in this instance is a qualified exemption and is subject to a public interest test. We have balanced the public interest in disclosing the information against the public interest in maintaining the exemption. We accept there is a public interest in having access to information held by public authorities. Weighed against this, we consider there is a public interest in respecting the commercial value that BvD has developed in the data, which results in an important source of information for the SSRO's annual assessment of the baseline profit rate. We also consider there is a public interest in the SSRO not unnecessarily risking public money in compensation for data breaches. Having weighed these public interests, our conclusion is that the public interests in maintaining the exemption should preponderate.

There may be individual elements of the information you have requested that are not be exempt from disclosure under the FOI Act. Rather than the SSRO making assumptions about which elements, or combinations thereof that you require, we invite you to revise and re-submit your request for information having considered the relevant exemptions which may apply under the FOI Act, including those cited in this instance.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of our response to your request and should be addressed to: [enquiries@ssro.gov.uk](mailto:enquiries@ssro.gov.uk).

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.

Please remember to quote the reference number above in any future communications.

Yours sincerely

Chief Operating Officer

# SSRO

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Ref: SSRO/RFI 047  
12 October 2021

Dear [REDACTED],

## **Subject: Modified Freedom of Information request**

I refer to your email of 15 September 2021, in which you asked for the following information to be provided about each qualifying defence contract and qualifying sub-contract in a tabular form:

- a) MOD year contract let;
- b) Contracted price band;
- c) Contractor annual revenue; and
- d) Annual revenue of the contractor's GUO.

We have considered your request under the Freedom of Information Act 2000 (the FOI Act). I confirm that we hold (a) and (b) to the extent that this information has been reported by contractors in reports on qualifying contracts. We hold (c) and (d) for contractors and GUOs included in the comparator groups for the annual baseline profit rate assessment in the relevant year.

You have asked for the categories (a) to (d) to be provided in rows by reference to each, anonymised qualifying contract. We consider that, as requested, the information is exempt from disclosure due to the application of an exemption in section 43(2) of the FOI Act.

### **Prejudice to commercial interests (section 43)**

Information is exempt under section 43(2) of the FOI Act if its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the SSRO). The data held by the SSRO in categories (c) and (d) has been downloaded from the Orbis database in accordance with a contract entered into between the SSRO and Bureau van Dijk Electronic Publishing Limited (BvD). The contract prevents the SSRO from redistributing that data to a third party and doing so would involve the SSRO in an actionable breach of contract. We consider that disclosure would prejudice BvD's commercial interests, as they may otherwise sell the data in question, and the SSRO's commercial interests, as we may be exposed to financial claim. In the circumstances, the exemption in section 43(2) of the FOI Act applies in relation to categories (c) and (d).

The exemption relied upon in this instance is a qualified exemption and is subject to a public interest test. We have balanced the public interest in disclosing the information against the public interest in maintaining the exemption. We accept there is a public interest in having access to information held by public authorities. Weighed against this, we consider there is a public interest in respecting the

commercial value that BvD has developed in the data, which results in an important source of information for the SSRO's annual assessment of the baseline profit rate. We also consider there is a public interest in the SSRO not unnecessarily risking public money in compensation for data breaches. Having weighed these public interests, our conclusion is that the public interests in maintaining the exemption should preponderate.

We have not sought to cut down your request and respond in part, because it appears you are seeking a package of information. Nor have we proceeded to consider the potential application of other exemptions under the FOI Act. We met with you on 4 October 2021 to discuss your application and you subsequently asked that we advise on how you might frame your request. This seems to me to go beyond the type of advice and assistance contemplated in section 16 of the FOI Act and is probably a matter you will need to decide.

We can continue to engage with you and others from industry outside of the scope of the FOI Act. As you know, we received a request last week from the Defence Single Source Advisory Group proposing further engagement on the baseline profit methodology, which we are currently considering.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of our response to your request and should be addressed to: [enquiries@ssro.gov.uk](mailto:enquiries@ssro.gov.uk).

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.

Please remember to quote the reference number above in any future communications.

Yours sincerely

Chief Operating Officer