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Our ref: EN00151
Your ref: Mr P Collingbourne

Mr P Collingbourne

7 July 2008

Dear Mr Collingbourne

REQUEST FOR INFORMATION / FREEDOM OF INFORMATION ACT

We refer to your request for information under the Freedom of Information Act (FOIA) received by the Olympic Delivery Authority (ODA) on 10 June 2008 requesting the following information:

1. *A copy of the Information Protocol referred to in clause 11.2 of the ODA/TfL Funding Agreement (the "Agreement").*
2. *A copy of each Agreed Business Case; and*
3. *All Status Reports for each Project.*

We confirm that we hold some of the information of the description specified in your request.

Under Section 2 of the FOIA, the duty of a public authority to give access to information does not apply in respect of information which is exempt under the



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FOIA. Section 40 of the FIOA exempts personal data about a third party from disclosure if the disclosure:

1. Would breach any of the Data Protection Principles under the Data Protection Act; or
2. Would or would be likely to cause substantial distress to the individual concerned.

The first Data Principle requires that disclosure of personal data under the FOIA must be fair, while the sixth Data Principle requires that disclosure of the information is in accordance with the rights of the data subject.

Section 43(2) of the FOIA exempts information from disclosure if disclosure under the Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it). In addition, in terms of section 12(1) of the FOIA where the cost of complying with a request would exceed the appropriate cost limit set by the Fees Regulations 3 and 4 (£450.00 calculated on the basis of 18 hours' work at £25 per hour) a public authority is not obliged to comply with the request for information.

Item 1

This document is attached as **Annex A** to the covering e-mail, however, please note that the names of some of the individuals contained in the information have been redacted on the express instructions of the individuals concerned. In terms of section 40 of the FOIA, such information is exempt from disclosure on the basis that:

1. The information is personal data; and
2. Disclosure of the information would be unfair and in breach of the rights of the persons concerned and therefore in breach of the Data Protection Principles.

We have however, provided you with the generic contact details for the various organisations in place of the contact details of specific people within those organisations.

Item 2

We consider that the section 43(2) exemption applies to some of the information you have requested under this Item, because public disclosure of the information would, or would be likely to:

1. Have a detrimental impact on and threaten the ODA's and/or TfL's ability to successfully participate in commercial activity, in particular the ability to negotiate current and future terms of contract in the best interests of the ODA and/or TfL (and, consequently, in the best interests of the public).
2. Weaken the ODA's and/or TfL's commercial position in a competitive environment by revealing market-sensitive information or information of pecuniary advantage to third parties attempting to negotiate current or future terms of contract with the ODA and/or TfL.
3. Weaken the ODA's and/or TfL's commercial position by revealing market-sensitive information or information enabling any third party to demand identical or similar terms of contract with the ODA and/or TfL in current or future negotiations (which may not be commercially appropriate or justifiable), also placing such party at a pecuniary advantage.

The exemption of prejudice to commercial interest is a qualified exemption. This means that we are required to consider whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. We consider that the public interest in maintaining the exemption in respect of the requested information outweighs the public interest in disclosing the information because:

- (i) There is a strong likelihood that the prejudice to the ODA's and/or TfL's commercial interest explained above will be suffered if the information is disclosed to the public.
- (ii) The degree of prejudice to be suffered is likely to be far-reaching, as the ODA and TfL are still in the planning and/or procurement phase for many of these projects.
- (iii) Disclosure of the information may undermine the ability of the ODA and/or TfL to perform their statutory functions and, in particular, to secure best value.

- (iv) Disclosure will enable third parties to gain access to strategic commercial and business information providing an unfair advantage in its contractual negotiations with the ODA and/or TfL.

We regret that we are therefore unable to communicate the exempt information to you. The ODA has assessed the cost of creating redacted versions of the Business Cases, however, we believe that the cost of doing so would exceed the appropriate cost limit set out in Fee Regulations 3 and 4. For this redaction process to be completed correctly, we would be required to consult a number of stakeholders which would be a lengthy process. However, the ODA Transport team does create executive summaries of each of these business cases which is provided to the Executive Management Board (EMB). These EMB summaries give an overview of the project including an outline of the project.

The ODA has provided you with copies of all the EMB summaries as they pertain to your request for information, but have had to redact the financial information from these summaries as this information is commercially sensitive and is accordingly exempt in terms of section 43(2). We believe that providing you with the redacted EMB summaries achieves a good balance between our requirement to be transparent in dealing with public funds, whilst protecting commercially sensitive information.

The redacted EMB information is attached to the covering e-mail as **Annex B**

Further, the ODA would like to inform you that not all the projects tabled in Schedule 1 of the Funding agreement have not been agreed as yet; specifically those which relate to operational projects (items 9 through 11 (incl.), 16 through 20 (incl.), 22 and 25) as well as the LOCOG funded Projects (including those listed in Schedule 2 of the Funding agreement). Accordingly, the ODA does not hold the information requested in respect of these items.

Item 3

This information has been attached to the covering e-mail at **Annex C– ZZZ**

We trust that you find this information of assistance. However, if you are not satisfied with the response to your request and wish to make a complaint, you should write to The Information Officer, Olympic Delivery Authority, One

Churchill Place, Canary Wharf, London, E14 5LN. Please state detailed grounds for your complaint.

If you are not satisfied with the outcome of your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner will not make a decision unless you have exhausted the complaint procedure provided by the ODA. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely

A handwritten signature in black ink, appearing to read 'PJ Jarvis', enclosed in a thin black rectangular border.

Penelope Jarvis
Information Officer
Olympic Delivery Authority

