

9 February 2012  
FOIA reference: F0001281

Dear XXXX

I am writing in respect of your recent application of 19 January 2012 for the release of information held by the Civil Aviation Authority (CAA).

Your request:

*"I would be most grateful if you would provide me, under the Freedom of Information Act, details in respect of the following framework agreements:*

- *suppliers who applied for inclusion on each framework below and were successful & not successful at the PQQ & ITT stages*
- *Contract values of each framework (& any sub lots), year to date*
- *Start date & duration of framework*
- *Is there an extension clause in the framework(s)/contract(s) and, if so, the duration of the extension?*

*Framework Agreement Contract  
UK-Gatwick: research into aircraft fire & cabin safety  
Date of Contract  
Date Published: 14 October 2011".*

In assessing your request in line with the provisions of the Freedom of Information Act 2000 (FOIA), we regret that we are unable to comply with your request.

An advert inviting expressions of interest was published in the Official Journal of the European Union (OJEU) on 14 October 2011, and the tender process has not yet been concluded. The CAA does hold details of those applicants who were included, and those who were successful and not successful, at the PQQ stage. However, the CAA considers that this information is exempt from release under the FOIA.

If a bidder was aware of the identity of other interested parties in a tender process, that information may give a potential unfair competitive advantage to some bidders over others. As such, a potential supplier's reasonable expectation is that their participation remains confidential until such time as the process is concluded and a contract awarded. The CAA therefore considers that the identities of the suppliers involved in the PQQ stage is exempt from disclosure under Section 41 of the FOIA (a copy of this exemption is enclosed).

When the tender process has been concluded, the CAA is required to publish details of the selected supplier in the OJEU.

The CAA also considers that the release of the identities of those suppliers that are involved in the tendering process is also likely to prejudice the commercial interests of both the CAA and the

**Civil Aviation Authority**

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suppliers. As above, if a supplier was aware of the other interested parties in a tender process, that information may give a potential unfair advantage to some bidders over others.

The contract in question requires relatively specialised expertise and it is likely that each potential supplier would, if they knew the identities of the competing bidders, also be aware of those bidders' capabilities and expertise. This could cause suppliers to tailor their bids more to beating their competitors rather than providing the best possible solution to the CAA. It also introduces the possibility that bidders could, at this early stage in the process, collude over the terms or pricing of their bids to the CAA's detriment. Information which, if disclosed, would be likely to prejudice the commercial interests of any person is exempt from release under Section 43(2) of the FOIA (a copy of this exemption is enclosed).

As this is a qualified exemption we have also considered whether, in all the circumstances of the case, the public interest in withholding the information outweighs the public interest in disclosing the information.

Although it is not directly publicly funded, the CAA recognises the general public interest in the promotion of accountability and transparency of expenditure by public authorities. However, in ensuring that we obtain value for money to efficiently direct our financial resources towards our regulatory functions, it is of greater public interest not to inhibit the CAA's ability to procure the best possible services by releasing details of those parties involved in a tender process before it is concluded.

We have therefore concluded that, in all the circumstances of the case, the public interest in withholding the identities of those applicants who were included at the PQQ stage is greater than the public interest in disclosure.

As the tender process is still ongoing and still at an early stage, the CAA does not hold details of suppliers that were successful and not successful at the ITT stage, the contract value, start date and duration, and information relating to any extension clause.

If you are not satisfied with how we have dealt with your request in the first instance you should approach the CAA in writing at:-

Mark Stevens  
External Response Manager  
Civil Aviation Authority  
Aviation House  
Gatwick Airport South  
West Sussex  
RH6 0YR

[mark.stevens@caa.co.uk](mailto:mark.stevens@caa.co.uk)

The CAA has a formal internal review process for dealing with appeals or complaints in connection with Freedom of Information requests. The key steps in this process are set in the attachment.

Should you remain dissatisfied with the outcome you have a right under Section 50 of the Freedom of Information Act to appeal against the decision by contacting the Information Commissioner at:-

Information Commissioner's Office  
FOI/EIR Complaints Resolution  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
[www.ico.gov.uk/complaints.aspx](http://www.ico.gov.uk/complaints.aspx)

Should you wish to make further Freedom of Information requests, please use the e-form at <http://www.caa.co.uk/foi>.

Yours sincerely

Rick Chatfield  
FoIA & EIR Case Manager

## **CAA INTERNAL REVIEW & COMPLAINTS PROCEDURE**

- The original case to which the appeal or complaint relates is identified and the case file is made available;
- The appeal or complaint is allocated to an Appeal Manager, the appeal is acknowledged and the details of the Appeal Manager are provided to the applicant;
- The Appeal Manager reviews the case to understand the nature of the appeal or complaint, reviews the actions and decisions taken in connection with the original case and takes account of any new information that may have been received. This will typically require contact with those persons involved in the original case and consultation with the CAA Legal Department;
- The Appeal Manager concludes the review and, after consultation with those involved with the case, and with the CAA Legal Department, agrees on the course of action to be taken;
- The Appeal Manager prepares the necessary response and collates any information to be provided to the applicant;
- The response and any necessary information is sent to the applicant, together with information about further rights of appeal to the Information Commissioners Office, including full contact details.

**Freedom of Information Act : Section 41**

(1) Information is exempt information if-

- (a) it was obtained by the public authority from any other person (including another public authority), and
- (b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

(2) The duty to confirm or deny does not arise if, or to the extent that, the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) constitute an actionable breach of confidence.

**Freedom of Information Act : Section 43**

(1) Information is exempt information if it constitutes a trade secret.

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

3) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).