

GREATER LONDON AUTHORITY

[REDACTED]
(By email)

Our Ref: MGLA081018-4635

30 November 2018

Dear [REDACTED]

Thank you for your request for information which the GLA received on 5 October 2018. Your request has been dealt with under the Freedom of Information Act 2000 (FoIA).

You asked for the Supplier Service Netting Off Agreement with RWE Npower.

Please find attached the information you have requested. Please note that schedule 1 of the Agreement is exempt from disclosure under the exemption for Commercial Interests at section 43(2) of the FoIA. Section 43(2) provides that information can be withheld from release if its release would, or would be likely to, prejudice the commercial interests of any person.

A commercial interest relates to a person's ability to participate competitively in a commercial activity and in this instance, the information withheld from disclosure relates to details of how npower calculates charges, and lists the charges that are applicable to the agreement

The GLA is satisfied that in this instance disclosure of the information would be likely to, prejudice or harm the commercial interests RWE Npower. If this schedule is released, then npower is put at a significant commercial disadvantage with regards to any future contracts of this nature and their ability to participate competitively in a commercial activity.

Section 43(2) constitutes a qualified exemption from our duty to disclose information under the FOIA and consideration has to be given as to whether the public interest favouring disclosure of the information covered by this exemption outweighs the public interest considerations favouring maintaining the exemption and withholding the information.

In this instance the GLA recognises the legitimate public interest in the transparency of contracts it has agreed with the private sector.

In balancing the public interest in disclosure, we consider the greater good or benefit to the community as a whole if the information is released or not. The 'right to know' must be balanced against the need to enable effective government and serve the best interests of the public. In this case, it is felt that the public interest would not be met by revealing information such as a pricing mechanism which can, for example, be detrimental to the way in which Npower negotiates on other contracts and procurements. If another organisation knows how Npower costs an item or service for example, then it can exploit this for profit or other gain.

We have also decided to withhold some information under section 40 (Personal information) of the Act. This information includes the names of employees and constitutes as personal data which is defined by Article 4(1) of the General Data Protection Regulation (GDPR) to mean any information relating to an identified or identifiable living individual. It is considered that disclosure of this information would contravene the first data protection principle under Article 5(1) of GDPR which states that Personal data must be processed lawfully, fairly and in a transparent manner in relation to the data subject.

If you have any further questions relating to this matter, please contact me, quoting the reference at the top of this letter.

Yours sincerely

Paul Robinson
Information Governance Officer

If you are unhappy with the way the GLA has handled your request, you may complain using the GLA's FOI complaints and internal review procedure, available at:

<https://www.london.gov.uk/about-us/governance-and-spending/sharing-our-information/freedom-information>