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Major Network Upgrades
Department for Transport
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GTN No: XXXXX
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Web Site: www.dft.gov.uk

Our Ref: FOI 8724

Dear XXXXXXXXXX,

FOI Request – Improving Railway car parking grants

I am writing to confirm that the Department for Transport has now completed its search for the information which you requested on 14 March 2012.

You requested;

- A) Details of Grants available within the past 12 months for improving parking at railway stations. To include criteria for application and amount of funding available.*
- B) Copies of all the applications for this funding, including supporting information.*

You provided on 20 March 2012 the following clarification of your request;

I understand that the DfT has had money available to rail operators to develop parking at stations. This is what I mean by 'Grants' – money made available to rail operators which they apply for. The specific grant I am thinking of recently closed to applications,

A) The Stations Commercial Project Facility (SCPF) is a £100 million Railways Asset Base funding facility and not technically a grant but appears to fit the information you are requesting in your further clarification. The detailed criteria for the SCPF are viewable on the Network Rail website at the following address:

www.networkrail.co.uk/scpf

The Access for All (AfA) scheme funds schemes that are relevant to disabled people. This could include car parking schemes. The budget is set by the Department and is £5 million for 2011/12. This funding is divided among the Train Operating Companies based on the number of stations they have and the footfall of those stations. The schemes must be relevant to disabled people.

B) I have included relevant applications and supporting information for car park schemes under the AfA grant for 2011/12.

It is not possible to release the SCPF bid applications, including supporting information which are commercially sensitive containing traffic figures, demand revenue forecasting and operating costs. The information you requested is being withheld in reliance on the exemptions in the following sections of the Freedom of Information Act 2000 (the "Act"):

- (a) section 41, under which information obtained by a public authority is exempt if disclosure of the information to the public by the public authority would constitute an 'actionable breach of confidence'; and

- (b) section 43(2), under which information is exempt if its disclosure would, or would be likely to, prejudice the commercial interests of any person.

These exemptions apply because:

- (a) in the case of section 41, much of the information you requested is protected by the law of confidence in such a way that disclosure of it to the public by the Department would constitute an actionable breach of confidence. That information is protected in this way because (i) it is of a confidential nature, (ii) it was disclosed to the Department in circumstances of confidence and (iii) there is no overriding public interest in its disclosure; and
- (b) in the case of section 43(2), disclosure of much of the information you requested would prejudice the commercial interests of both the Department and the bidders.

The third tranche of bids under the SCPF are still being evaluated and it is therefore not possible to release information about the bids including supporting information. The information you requested is being withheld in reliance on the exemptions in the following sections of the Freedom of Information Act 2000 (the "Act"):

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date.
- (b) section 41, under which information obtained by a public authority is exempt if disclosure of the information to the public by the public authority would constitute an 'actionable breach of confidence'; and
- (c) section 43(2), under which information is exempt if its disclosure would, or would be likely to, prejudice the commercial interests of any person.

These exemptions apply because:

- (a) in the case of section 22, the information you request is held by the Department with a view to its publication, by Network Rail and others by the summer of 2012. The information was already held with a view to such publication at the time when the request for information was made, and it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).
- (b) in the case of section 41, much of the information you requested is protected by the law of confidence in such a way that disclosure of it to the public by the Department would constitute an actionable breach of confidence. That information is protected in this way because (i) it is of a confidential nature, (ii) it was disclosed to the Department in circumstances of confidence and (iii) there is no overriding public interest in its disclosure; and
- (c) in the case of section 43(2), disclosure of much of the information you requested would prejudice the commercial interests of both the Department and the bidders.

In applying the exemption under sections 22 and 43(2) we have had to balance the public interest in withholding the relevant information against the public interest in disclosure. The attached annex A to this letter sets out the exemptions in full and details why the public interest test (PIT) favours withholding the information. Section 41 is an absolute exemption, and therefore not subject to a PIT.

If you are unhappy with the way the Department has handled your request or with the decisions made in relation to your request you may complain within two calendar months of the date of this letter by writing to the Department's Information Rights Unit at:

Zone D/04
Ashdown House
Sedlescombe Road North
Hastings
East Sussex TN37 7GA
E-mail: FOI-Advice-Team-DFT@dft.gsi.gov.uk

Please see attached details of DfT's complaints procedure and your right to complain to the Information Commissioner.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely,

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Your right to complain to DfT and the Information Commissioner

You have the right to complain within two calendar months of the date of this letter about the way in which your request for information was handled and/or about the decision not to disclose all or part of the information requested. In addition a complaint can be made that DfT has not complied with its FOI publication scheme.

Your complaint will be acknowledged and you will be advised of a target date by which to expect a response. Initially your complaint will be re-considered by the official who dealt with your request for information. If, after careful consideration, that official decides that his/her decision was correct, your complaint will automatically be referred to a senior independent official who will conduct a further review. You will be advised of the outcome of your complaint and if a decision is taken to disclose information originally withheld this will be done as soon as possible.

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

Annex A

Exemption 22 in full

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
- (b) the information was already held with a view to such publication at the time when the request for information was made, and
- (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

Public interest test

Public interest test factors for disclosure

There is a public interest in knowing the information regarding which organisations have bid in Tranche 3 of the Station Commercial Project Facility (SCPF) bidding round. This information is currently being held and is being used to determine which bids will be successful in Tranche 3 of the SCPF bidding round.

The current coalition Government has promoted the ideal that information should be made public rather than not, and that Government should be more transparent.

Public interest test factors against disclosure

The data being held relating to Tranche 3 of the SCPF is being used to evaluate the bids and release of this data could prejudice the outcome of the bidding evaluation. It is planned to publish a list of successful bidders when evaluation is complete. This is expected to be by summer 2012.

When the request was made it was already decided to publish a list of successful bidders by the summer of 2012. A list of successful bidders was published for tranche 1 and 2.

Decision

To release information relating to Tranche 3 of the SCPF at this time could prejudice the outcome of the bidding evaluation and could adversely affect DfT's working relationship with the industry.

Exemption 43 in full

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).

Public interest test

Public interest test factors for disclosure

There is a public interest in knowing the information contained in the application forms submitted by bidders for Station Commercial Project Facility funds. The public could have an interest in satisfying themselves that the decisions regarding which bids are successful are fair. To ensure fairness the Panel awarding the funding comprises DfT, Network Rail and the Association of Train Operating Companies.

The current coalition Government has promoted the ideal that information should be made public rather than not, and that Government should be more transparent.

Public interest test factors against disclosure

Commercial confidentiality

This data is commercially sensitive to bidders. Most rail services and car parking operations in the UK compete with other public transport services and car park providers. Making rail and car park data available would provide unfair commercial advantage for most of these competitors.

As more data is made public, it is easier to allow analysis of revenue and of the growth in revenue: for example by route; by time of day; by year. Like any commercial organisation, detailed revenue and patronage information is of high value to the operators' competitors and the release of this information would prejudice their ability to compete.

Train operators were consulted by DfT in March 2009 over the specific issue of data confidentiality and data access/sharing with reference to the passenger count information they share with the Department. It was concluded that permission was not given to share individual operators' data with any party other than DfT except with express permission. Permission has not been given in this instance.

	<p>The train operating companies are separate commercial entities, and although they operate services on behalf of the Government, we are not obliged to release any information that could prejudice a private company's commercial interests.</p> <p>At a very general level, there is a public interest in protecting the commercial interests of both the private sector (which plays an important role in the general health of the economy) and the public sector (whose commercially-related functions need in any event to be exercised in the wider context of the public interest).</p> <p>If the train operators feel that the Department is not treating their commercial data with care, there is a risk that they will stop supplying any information that they are not obliged to under the terms of their Franchise Agreements with the DfT. This would have an impact on DfT's ability to carry out its policy and planning functions, and would limit the information available to the Department when franchises are being let.</p>
<p style="text-align: center;"><u>Decision</u></p> <p>To release this information would damage the commercial position of the Train Operating Companies, and would adversely affect DfT's working relationship with the industry.</p>	