

Ref: FOI2023-027

[REDACTED]

16th August 2023

Dear [REDACTED]

Further to our previous correspondence regarding your request for the following information:

Please may you provide me, in Microsoft Excel or an equivalent electronic format, with a list of invoices that were not paid within 30 days for the last 6 financial years (2017/18 to 2022/23 inclusive) which would feed into the Regulation 113 Notice you are required to publish each year as part of your obligations under The Public Contracts Regulations 2015, with the following information for each invoice (where available):

- *The name of the Supplier*
- *Supplier email address*
- *Supplier company registration number*
- *Supplier postal address*
- *Supplier telephone number*
- *Supplier website*
- *The date of the invoice*
- *The invoice reference*
- *The gross value of the Invoice*
- *The date the invoice should have been paid by*
- *The actual payment date of the invoice*
- *The total amount of interest liability due to late payment of the invoice*
- *The total amount of interest paid to the supplier due to late payment of the invoice.*

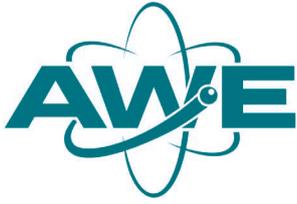
For the avoidance of doubt we request the data behind payment performance summaries for Regulation 113 Notices, not the summaries themselves.

We expect that this information to be readily available and easily accessible in the electronic format requested given the necessity of source data which must have been required to prepare and produce the Regulation 113 Notice.

If it is not possible to provide the information requested due to the information exceeding the cost of compliance limits identified in Section 12, or for another reason, please provide advice and assistance, under the Section 16 obligations of the Act, as to how I can refine my request.

Your request has been handled as a request for information under the Freedom of Information Act 2000 (the Act).

We can confirm that the Atomic Weapons Establishment (AWE) holds information in scope of your request.



However, part of the information you have requested falls entirely within the exemption under section 21 of the Act (Information accessible to applicant by other means). Information in scope of your request can be found here: [Payment practice report for AWE PLC \(check-payment-practices.service.gov.uk\)](https://payment-practices.service.gov.uk)

Thorough searches have been carried out to locate the finer detail that you requested and we can confirm that AWE has not been able to locate any relevant recorded information.

However, we must advise you that AWE would not be able to answer your request without exceeding the appropriate cost limit. Section 12 of the FOIA makes provision for public authorities to refuse requests for information where the cost of dealing with them would exceed the appropriate cost limits, which for AWE is set at £450-00. Furthermore, to provide the information requested each report would need to be manually checked to remove sensitive information.

Under Section 16 of the FOIA (Advice and Assistance) AWE has an obligation to offer as much advice and assistance as is reasonably practicable and, as such, we would normally suggest ways in which you can refine your request to bring it below the cost limit. However, we are unable to suggest an alternative refinement to your original request, as the details you are requesting are covered by various exemptions as provided by FOIA:

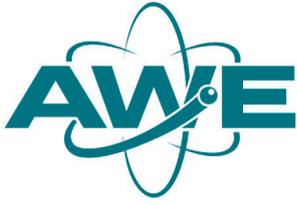
Section 24 (National Security), Section 26 (Defence), Section 38 (Health & Safety) and Section 43 (Commercial Interests) of the FOIA, and as such are subject to public interest testing. This means that the information requested can only be withheld if it outweighs the public interest in disclosure.

We have conducted a public interest test, and our findings are summarised below.

Section 24 – National Security and Section 26 – Defence

When assessing whether or not it was in the public interest to disclose the information to you, we took into account the following factors:

In favour of release is the presumption towards disclosure under the FOIA as answering this question would increase transparency of key contracts relating to the UK's nuclear deterrent. However, Section 24(1) and 26 (1) (a) have been applied to your request as the level of detail provided could identify areas of potential weakness to cyber attacks or proposed fixes to perceived weaknesses. It could also identify processes with direct impact on the secure running of AWE's supply chain and associated security weaknesses. Therefore, the public interest in maintaining the exemption clearly outweighs any public interest in disclosure of this information. Additionally, we have set the higher level of "would", rather than "would be likely to" cause harm if this information were to be released.



Section 43 – Commercial Interests

When assessing whether or not it was in the public interest to disclose the information to you, we took into account the following factors:

In favour of release is the presumption towards disclosure under the FOIA as answering this question would increase transparency of the invoicing and outstanding contracts for the UK's nuclear deterrent.

However, Section 43(2) has been applied because releasing the requested detail of information would affect the commercial interests of AWE and would put it at a disadvantage in all future negotiations with suppliers. Therefore, the public interest in maintaining the exemption clearly outweighs any public interest in disclosure of this document. Additionally, we have set the higher level of “would”, rather than “would be likely to” cause harm if this information were to be released.

Section 38 – Health and Safety

When assessing whether or not it was in the public interest to disclose the information to you, we took into account the following factors:

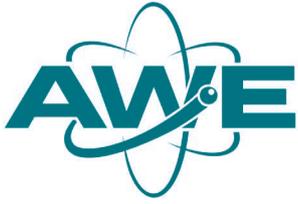
In favour of release is the presumption towards disclosure under the FOIA, as answering this question would increase transparency of the invoicing and outstanding contracts for the UK's nuclear deterrent, full disclosure of the data provides transparency, ensuring AWE is fully accountable to the public.

However Section 38 has been applied because we are also not obliged to provide information if its release would be likely to endanger the health and safety of an individual. In this case, we believe that releasing the information would be likely to endanger the physical or mental health of individuals working for or contracted to AWE (Section 38 (1)(a) of the Act).

In line with the terms of this exemption in the Freedom of Information Act, we have also considered whether it would be in the public interest for us to provide you with the information, despite the exemption being applicable. In this case, we have concluded that the public interest favours withholding the information.

Please remember to quote the reference number above in any future communications. If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you are unhappy with the way your request has been handled you have a right to request an internal review within 40 days of receiving this letter, by writing to information.requests@awe.co.uk or our postal address: Information Requests Team, AWE Aldermaston, Reading RG7 4PR. If you are still unhappy after an internal review has been completed, under the provisions of Section 50 of the Freedom of Information Act 2000 you have the right to take your complaint to the Information Commissioner's Office. Please note the



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www.awe.co.uk

Commissioner will generally not consider a complaint until you have exhausted AWE's internal complaints process.

Yours sincerely,

AWE Information Requests Team

