



[REDACTED]

22 December 2020

Dear [REDACTED]

**Freedom of Information request: FOI2020/00367**

Thank you for your letter, your reference: [REDACTED], received on the 28 October. Although I note your letter indicated the request for information was to avoid making a Freedom of Information Act (FOIA) request, we have considered the following within the scope of the FOIA:

**Your request:**

*(a)disclose copies of the Project application, grant offer, grant terms & conditions, and all other relevant contracts for the project, including the consortium agreement; and*

*(b)disclose all relevant correspondence and documents it has had with Railview and the consortium members regarding (i) the Project funding (including any financial statements regarding the Project), (ii) use of the Patent during and after the Project, and (iii) future use of any intellectual property arising from the Project.*

**Our response**

I can confirm UK Research and Innovation (UKRI) hold the information relevant to your request.

In response to your request we can provide you with the following information that is, or has been, readily available in the public domain:

- Eligibility criteria, scope and details of how to apply for the accelerating innovation in rail 5 funding competition can be found on the following link [Accelerating innovation in rail 5](#)<sup>1</sup>.
- Comprehensive guidance for organisations applying for Innovate UK's funding opportunities can be found on the following link: [Business innovation: what funding you can get and how to apply](#)<sup>2</sup>.
- Terms and conditions applicable to all organisations applying for grant funding from Innovate UK are attached at: FOI2020 00367 Terms and conditions of an Innovate UK grant award.
- Information about the projects funded by Innovate UK between 2004 and 1 December 2020 can be found on the following link: [Innovate UK transparency data](#)<sup>3</sup>. In order to provide advice and assistance I have provided an extract containing the information for project reference 104245. Please find the extract attached at: FOI2020 00367 Innovate UK Funded Projects Filtered Project Reference 104245
- Further details of Innovate UK awards to Railview Limited, including the funded value, can be found on [Gateway to Research](#)<sup>4</sup>.

We have determined that the remaining information you have requested falls under Section 41 of the FOIA, information provided in confidence. To explain further, information included but not limited to specific applications, grant offers, and contracts is provided to Innovate UK in confidence. If the information was released, we believe it

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<sup>1</sup> <https://apply-for-innovation-funding.service.gov.uk/competition/61/overview#scope>

<sup>2</sup> <https://www.gov.uk/guidance/innovation-apply-for-a-funding-award>

<sup>3</sup> <https://www.gov.uk/government/publications/innovate-uk-funded-projects>

<sup>4</sup> <https://gtr.ukri.org/organisation/6CAD16E0-CF1E-4A2A-9C5E-6C29A1E2B041>

would result in an actionable breach of confidentiality. As this exemption is absolute there is no requirement to conduct a public interest test.

We also believe the remaining information you have requested falls under the scope of Section 43(2) of the FOIA. This exemption is used where disclosure would likely result in a person's (an individual, a company the public authority itself or any other legal entities) commercial interests being prejudiced.

This is a qualified exemption, meaning that a test was carried out to determine whether the public interest outweighs the requirement for commercial confidentiality.

#### **Public interest in favour of disclosure**

- There is a general public interest in the disclosure of this information to ensure transparency and openness of a public organisation.
- There is also a public interest in transparency in order to ensure the accountability of public organisations and how they spend public funding.
- It would be in the public interest to view the applications, offers and financial statements as public monies are used to fund these activities. As this is the case it is important that the project has a positive impact and is beneficial to all parties involved. Seeing copies of the applications, offers and financial statements enables the public to independently assess the impact of the project.

#### **Public interest in favour of withholding the information**

- The applications, offers and financial statements contain commercially sensitive information such as salary information, business plans, cost and schedule information, technical project plans and extensive descriptions of the project which are disclosed to UKRI in confidence. The agreement we have with applicants is that we will not release any confidential information without their permission. Releasing the information requested could be taken advantage of by competitors in planning competing strategies for further business opportunities. Applicants complete the application form knowing that if they achieve success only a brief overview of their successful bid will be publicly available, everything else will remain confidential.
- Innovate UK's competition process is highly competitive and composing a successful bid requires expertise and skill in providing quality information as well as understanding the most advantageous content to present in order to succeed. The applicant must also have the ability to support and justify the strength of their application. The applicant must do this whilst adhering within the strictly enforced scope and eligibility requirements of a particular competition. This knowledge is proprietary to the applicant. In addition, there are companies and consultancy groups that specialise in selling a grant writing service based on their grant writing expertise and knowledge. This exemplifies the commercial advantage and value that such expertise and skills deliver. As such disclosing the information requested is likely to reduce the applicants commercial advantage and thereby harm its commercial interests in a highly competitive field. We believe disclosing this information via FOI confers an advantage to competitors which would likely materially disadvantage and harm the interests of the applicants, particularly in their ability to compete for grants.
- Releasing information provided in confidence to UKRI is likely to damage the possibility of ongoing relationships with other organisations. Relationships may become untenable if third parties cannot be certain that their commercial information will remain confidential when held by UKRI.
- Breaching the commercial interest may also adversely affect future negotiation opportunities for UKRI. UKRI may be seen as a 'confidentiality' risk if it routinely releases information relating to business arrangements into the public domain, particularly where this is third party information
- We also considered the impact on UKRI if commercially sensitive information of companies we and engage and work closely with were disclosed. We believe it would damage the trust in UKRI and likely impact our ability to carry out our role and manage our current and future investments.

Taking the above arguments into consideration, we reached the decision that the need for commercial confidentiality outweighs the public interest in disclosure; therefore the information is exempt from disclosure.

If you have any queries regarding our response or you are unhappy with the outcome of your request and wish to seek an internal review of the decision, please contact:

Head of Information Governance


Email: [foi@ukri.org](mailto:foi@ukri.org) or [infogovernance@ukri.org](mailto:infogovernance@ukri.org)

Please quote the reference number above in any future communications.

If you are still not content with the outcome of the internal review, you may apply to refer the matter to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the review procedure provided by UKRI. The Information Commissioner can be contacted at: <http://www.ico.gov.uk/>

If you wish to raise a complaint regarding the service you have received or the conduct of any UKRI staff in relation to your request, please see UKRI's complaints policy: <https://www.ukri.org/about-us/policies-and-standards/complaints-policy/>

Yours sincerely,

  
Information Governance  
Information Rights Team  
UK Research and Innovation  
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