

Request for expenditure on goods and services provided by Palantir Technologies

Legislation	Official Information Act 1982, s 9(2)(b)(ii)
Agency	New Zealand Defence Force
Ombudsman	Peter Boshier
Case number(s)	449159
Date	March 2018

Release of total cost would not unreasonably prejudice third party's commercial position—public interest in accountability for spending public money

A requester sought the annual total spent by the New Zealand Defence Force (NZDF) on goods and services provided by Palantir Technologies. The NZDF refused the request under section 9(2)(b)(ii) (unreasonable commercial prejudice) and the requester complained to the Ombudsman.

The NZDF argued that release would allow Palantir's competitors, and current and future customers, to gather some idea of its market and/or pricing strategy, which would lead to:

- existing customers of Palantir seeking to renegotiate their contracts to the detriment of Palantir; and
- Palantir's negotiating position in current and future contractual negotiations being weakened.

The Chief Ombudsman was not persuaded that release of the annual total would be likely to unreasonably prejudice Palantir's commercial position. He accepted there was the potential for Palantir's competitors and current and future customers to gain a limited insight into its market strategy, to the extent that it may reveal that Palantir offered discounts to customers it wished to attract. However, it was necessary to consider the likelihood of the potential harm.

The NZDF had withheld information about the nature of the goods and services provided by Palantir under section 6(a) of the OIA. Because the precise nature of those goods and services was not publicly known, there was no evident risk that competitors could use that information in concert with costing information to deduce Palantir's pricing strategy to any level of accuracy. While release of the information at issue might transmit a minor indication of its market strategy to Palantir's competitors and customers, it would not be revelatory to any significant extent.

The Chief Ombudsman also concluded that, even if section 9(2)(b)(ii) of the OIA applied, the need to withhold would be outweighed by the public interest in disclosure. There is significant public interest in disclosing information which gives transparency to how public funds are spent. Transparency can enhance levels of citizens' trust in government, and maintains integrity in the public sector. The release of information of this type encourages good financial management and discourages corruption.

The Chief Ombudsman recommended that the information be disclosed.

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