


Haringey Council

Written Statement/Record of a decision made by an officer under delegated authority

Decision Maker (Post Title)	Director of Housing, Regeneration & Planning
Subject of the decision	Appointment of Levitt Bernstein via the Notting Hill Genesis Framework Agreement CF1 Lot 3 (landscape architects)
Date of decision	13 May 2022
Decision	<p>Direct award of contract to provide multi-disciplinary design-led services in support of the Down Lane Park Improvement Project to Levitt Bernstein Associates Ltd, using the Notting Hill Genesis Framework.</p> <p>The contract will cover masterplan development and detailed design of priority projects, up to a maximum value of £497,659 + VAT.</p>
Reasons for the decision	<p>The Down Lane Park Improvement Project was paused in July 2021 to enable a change in approach and pivot to more active and in-depth resident collaboration, working within a co-design model. Co-design, with a focus on direct community participation, was not part of the original tender for services in 2020. Thus, the council made a formal decision in November 2021 to appoint a new consultant team with demonstrable experience of working successfully within a co-design model, to build the confidence of the community and secure buy-in to this revised approach.</p> <p>This new co-design approach commenced in January 2022, with a series of capacity building workshops with a newly convened Community Design Group, supported by a specialist enabler and facilitator. The project now needs to move into the design phase, to:</p> <ul style="list-style-type: none"> • Maintain momentum and positive engagement with the Design Group and local stakeholders who are keen to see tangible and swift progress made on improvements to the park • Align with live and interfacing projects (Decentralised Energy Network delivery) and successfully resolving interfaces with adjacent development sites • Demonstrate that progress is being made on this project and safeguarding identified s106 (developer) contributions, which make up the current project delivery budget of £2.97m. <p>Levitt Bernstein Associates are a Haringey based, established, and award-winning architectural practice with a broad portfolio ranging across urban design, master planning, education, health, arts, housing, commercial, and landscape design, including parks. They have strong experience and a successful track record of participatory community centred design and co-design.</p>

	<p>Allied to successful experience of participatory design, Levitt Bernstein has the capacity and ability to mobilise quickly responding to a strong desire amongst elected Members, key stakeholders, and funders, for the Down Lane Park Improvement Project to make up for time lost whilst the project was under review in 2021 and for it to progress at pace.</p> <p>Levitt Bernstein also has valuable existing knowledge of Tottenham Hale and Down Lane Park, having been the lead consultant on the Ashley Road Depot scheme which bounds the northern edge of Down Lane Park.</p> <p>The decision to make a direct award via a Framework Agreement, responds to the programme considerations detailed above and the exacting requirement of the commission, including blending landscape and building architectural skills with a specialism in community centred participatory design models. By using the Notting Hill Framework (which allows for Direct Award of contracts) a fair process is ensured with pre-qualified consultants in a cost and time effective manner for the overall benefit of the project.</p>
<p>Details of any alternative options considered and rejected by the officer when making the decision</p>	<p>Do Nothing – if multi-disciplinary design-led services are not procured the Down Lane Park Improvement Project cannot progress and time limited S.106 (Developer Contributions) cannot be utilised and over time and may be at risk if not allocated or defrayed in a timely fashion. Given the strong political commitment to the project from the two lead Cabinet Members, and the expectations of key stakeholders, the community and funders, there would be significant risk to the Council’s reputation and partner relationships locally if no appointment is made and the project is unable to progress.</p> <p>Four alternative options were considered:</p> <p>Option 1: Inviting the runner up in the original May 2020 tender exercise to take the commission forward. This was discounted on the basis that the runner up in the original tender exercise had bid and been assessed against a scope of requirement and evaluation criteria that does not align sufficiently with the revised (co-design) approach to the project.</p> <p>Option 2: OJEU (Official Journal of the European Union) open tender exercise via the Council’s Dynamic Purchasing System. This was discounted on the basis that a fully OJEU compliant open tender exercise typically takes 4-6 months to conclude, which is at odds with elected Members, key stakeholders, funders, and the wider community’s desire to make up time and see rapid progress, particularly so given the hiatus in 2021.</p> <p>Option 3: Running a competitive tender exercise via an established procurement Framework, e.g., the GLA’s Architecture Design and Urbanism Panel (ADUP). This was considered carefully, and a review undertaken of available</p>

	<p>Framework Agreements and the participative, co-design experience of the architectural practices in the relevant Lots. Whilst a number were felt to have the right blend of landscape and building design experience, it was harder to identify those who also have a strong track record of successful co-design and delivery of projects of a similar nature, scale, and complexity.</p> <p>Option 4: A single supplier direct award from an established compliant Framework. This option was selected on the grounds that Levitt Bernstein Associates are able to meet the specific and exacting requirements of the commission in a timely fashion, whilst also providing value for money.</p>
<u>Conflicts of interest – Executive decisions</u>	N/A
<u>Conflicts of interest – Non executive decisions</u>	N/A
Title of any document(s), including reports, considered by the officer and relevant to the above decision or where only part of the report is relevant to the above decision, that part)	<p>Delegated Authority Report: Down Lane Park: Appointment of design led multi-disciplinary professional team</p> <p>Appendix A: ITT Section 2 Scope of Requirement – Down Lane Park Improvement Project</p>
<p>Reasons for exemption with reference to categories of exemption specified overleaf, or</p> <p>Reason why decision is confidential (see overleaf)</p> <p>Note: decisions containing exempt or confidential information falling within the categories specified overleaf are not required to be published.</p>	<p>Appendix B: Levitt Bernstein Tender Response (30.03.22)</p> <p>This is exempt because it contains information which is considered to be commercially sensitive and related to the financial or business affairs of the supplier.</p> <p>N/A</p>
Signature of Decision Maker	
Name of Decision Maker	David Joyce, Director of Housing, Regeneration and Planning
<p>Does the decision need to be published?</p> <p>Yes <input checked="" type="checkbox"/></p>	

No	
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Exempt Information

Local Government Act 1972 Schedule 12A

Part 1: Descriptions of Exempt Information

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any person (including the authority holding that information).
4. Information relating to any consultations or negotiations or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes -
 - (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) To make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Note: It is insufficient to simply identify a category of exemption, you must also conduct a public interest test on the basis specified in the Act as follows:
Information falling within categories 1-7 is exempt if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Confidential Decisions

1. The decision contains information provided by a Government department on a non disclosure basis
2. There is a Court order against disclosure

DECISION MAKING REPORT

Report for: David Joyce, Director Housing, Regeneration & Planning
Item number: N/A
Title: Down Lane Park: Appointment of design led multi-disciplinary professional team
Report authorised by: Peter O'Brien, Assistant Director, Regeneration & Economic Development
Lead Officer: Owain Jones, Programme Manager, Regeneration - Tottenham Hale
Ward(s) affected: Tottenham Hale
Report for Key/Non-Key Decision: Non-Key Decision

1. Describe the issue under consideration

- 1.1 Approval to the implementation of Contract Standing Order 9.07.1 c), which provides that a Director may award, assign, or novate contracts valued up to £500,000, to appoint a design led multi-disciplinary professional team in support of the Down Lane Park Improvement Project.
- 1.2 Levitt Bernstein Associates Ltd. will be appointed via a single supplier direct award using **Notting Hill Genesis' (pre-qualified supplier)** Framework Agreement, as provided for under clause 5.2.4. (The Framework Agreement expires on 31.05.22.)
- 1.3 The total contract value of the proposed contract award, including works across RIBA Stages 2-6 is £497,659 + VAT. This is a maximum figure, as provision has been made within the contract for breaks at intermediate RIBA stages and a % fee basis for RIBA stages 5 and 6.

2. Recommendations

- 2.1 For the Director of Housing, Regeneration and Planning to:
 - 2.1.1 Approve the appointment of Levitt Bernstein Associates Ltd via a single supplier direct award using the Notting Hill Genesis Framework Agreement CF1 Lot 3 in accordance with CSO 9.07.1 (c) for multi-disciplinary design services for a period of 4 years from 2022 to 2025, with provision for extension for 12 months, for a total contract value of £497,659.

3. Reasons for decision

- 3.1 The Down Lane Park Improvement Project was paused in 2021 to enable a change in approach towards more active and in-depth resident engagement - co-design or co-production. This approach places a high premium on successful experience and the ability to work collaboratively with communities within participative or co-design models, which was not core to the original tender for design services in May 2020.
- 3.2 The council made a decision in November 2021 to terminate the contract of the previously appointed design team and to procure a new consultant team with strong and successful participative or co-design experience, to help **build the confidence and trust of the community and secure buy-in to a revised approach to community participation and design.**

- 3.3 The new co-design approach commenced in January 2022, with a series of capacity building workshops with a newly convened Community Design Group, made up of local community representatives, and including the two lead Cabinet Members – Cllrs Gordon and Hakata. The project now needs to move into the co-design phase to:
- Maintain momentum and positive engagement with the community and local stakeholders (including funders) who are keen to see tangible progress made on improvements to the park and swiftly
 - Align with inter-dependent projects (DEN delivery) and successfully resolve interfaces with adjacent development sites
 - Demonstrate that progress is being made on this project and safeguarding identified s106 (developer) contributions, which make up the current project delivery budget of £2.97m.
- 3.4 Section 106 (developer) contributions secured to support delivery of the Down Lane Park Improvement Project are as follows:

S106 Contributions	Amount	Date of Agreement	Received	Covenant description	Expiration
Premier Inn	£30,000	13/05/2014	Received	Allocated for Community Facilities & Environmental Improvement	22/04/2021
1 Station Square	£225,000	09/08/2017	Received	Landscaping contribution' 'towards improving leisure facilities and soft landscaping to facilitate residential access to Down Lane Park'.	without limit of time'
SDP	£380,000	27/03/2019	Not received	"Public Realm Purposes" means public realm and infrastructure improvements within the District Centre Framework Area to be applied to projects including, but not limited to, improvements at Station Road, Chesnut Road, Hale Road/ Watermead Way and Down Lane Park.' Lane Park' Towards maintenance or improvement of existing child play space facilities or the creation of new child play space facilities in the vicinity of the development'.	10 years from receipt
Ashley House & Cannon	£895,000	02/05/2018	Not received	Open Space contribution' 'towards leisure facilities and/or landscaping measures in relation to remodelling of residential access to DLP'.	without limit of time'
Ashley Gardens	£1,446,000	08/06/2018	Not received	Open Space contribution' 'Towards open space and/or public realm measures and improvements to Down Lane Park'.	5 years from receipt

- 3.5 Levitt Bernstein is an established, Haringey based, award-winning architectural practice with a broad portfolio ranging across urban design, master planning, education, health, arts, housing, commercial, and landscape design, including parks. They have strong experience and a successful track record of participatory community centred design and co-design.
- 3.6 Allied to successful experience of participatory design, Levitt Bernstein has the capacity and ability to mobilise quickly responding to a strong desire amongst elected Members, key

stakeholders, and funders, for the Down Lane Park Improvement Project to make up time lost whilst the project was under review in 2021 and for it now to move forward at pace.

- 3.7 Levitt Bernstein also has valuable existing knowledge of Tottenham Hale and Down Lane Park, having been the lead consultant on the Ashley Road Depot scheme which bounds the northern edge of Down Lane Park, which will benefit the project. (Now subject to planning).
- 3.8 **Responding to the Council's focus on social value, Levitt's have** committed to run two sessions through the life of the project providing advice to local businesses or community **groups on urban or landscape design; run a dedicated 'talk' on landscape design and work** with Harris Academy Tottenham to provide architecture/landscape design careers advice; run two sessions throughout life of the project providing mentoring and resource support to those interested in pursuing education or a career in landscape architecture; and provide work experience for a pupil from Harris Academy.
- 3.9 The decision to make a direct award via a Framework Agreement, reflects the programme considerations detailed above and the requirement for an exacting set of skills and experience, including specialisms in working with communities in participatory design models. By using the Notting Hill framework (which allows for Direct Award of contracts) a fair process is provided with pre-qualified consultants in a cost and time effective manner for the overall benefit of the project. (The Framework Agreement provides fixed and competitive fee rates).
- 3.10 Defrayal of the contract value (of the proposed award) for RIBA Stages 2-6 is anticipated as follows:

RIBA Stage	Timing	Amount
2	May - Oct '22	£80,281
3	Oct '22 - Apr '23	£115,656
4	Mar - Jul '23	£99,562
5	Oct '23 -Mar '25	£157,640
6	Oct '23 -Mar '25	£44,520
TOTAL		£497,659

Alternative options considered

- 3.11 **Do Nothing** – if multi-disciplinary design-led services are not procured the Down Lane Park Improvement Project cannot progress and time limited S.106 (Developer Contributions) cannot be utilised and over time may be at risk if not allocated or defrayed in a timely fashion. Given the strong political commitment to the project from the two lead Cabinet Members, and the expectations of key stakeholders, the community and funders, there would be significant risk **to the Council's reputation and partner relationships** in doing nothing. The opportunity to lever in additional delivery funding, e.g., Mayoral Green & Resilient Spaces Fund money, would also be compromised.
- 3.12 Four alternative procurement options were considered:
- 1) **Option 1:** Inviting the runner up in the original May 2020 tender exercise to take the commission forward
 - 2) **Option 2:** OJEU (Official Journal of the European Union) open tender exercise via the **Council's Dynamic Purchasing System**

- 3) **Option 3:** Running a competitive tender exercise via an established procurement Framework, e.g., the GLA's Architecture Design and Urbanism Panel (ADUP)
- 4) **Option 4:** A single supplier direct award from an established procurement Framework
- 3.13 **Option one** was quickly discounted on the basis that the runner up in the original tender exercise had bid and been assessed against a brief and evaluation criteria that does not align sufficiently with the revised (co-design) approach to the project.
- 3.14 **Option two** was discounted on the basis that a fully OJEU compliant open tender exercise typically takes 4-6 months to conclude, which is at odds with elected Members, key stakeholders (including funders), **and the wider community's desire to see rapid progress.** This is heightened given the hiatus experienced July – November 2021, whilst the approach to the project was under review.
- 3.15 **Option 3** was considered carefully, and a review undertaken of available Framework Agreements and the participative, co-design experience of the architectural practices in the relevant Lots. Whilst a number were felt to have the right blend of landscape and building design experience, it was harder to identify those who also have a strong track record of successful co-design and delivery of projects of a similar nature, scale, and complexity. A competitive exercise via this route, whilst likely swifter than an open competitive process, would nonetheless also likely take 2-3 months, thereby also raising programme, progress, reputational and partner relationships issues.
- 3.16 **Option 4:** Given the specific requirements of the project, not least the need to deploy successful experience of working within participative or co-design models, as well as a strong track record of having delivered projects of a similar nature, scale and complexity, option four (a single supplier Direct Award) has been assessed to provide the best means of satisfying the exacting requirements of the commission. In particular, evidence the preferred supplier has the proven ability to build rapport and trust with stakeholders and communities, as well as provide (landscape and building) design services to a high standard. This route is also known to be a swifter route, lessening the risk to programme, progress, reputation and partner relationships.

4. Background information

- 4.1 The Down Lane Park Improvement Project commenced in September 2020, with the appointment of a multi-disciplinary design team. They were selected through a competitive tender exercise as the highest scoring bidder out of seven tender submissions.
- 4.2 Between Sept 2020 and July 2021 the design team developed design proposals up to RIBA Stage 2 gateway. **The Council's change of Leadership in May 2021 brought a shift in emphasis and importance towards more active and in-depth resident and stakeholder engagement, with a strong political preference for more co-design and co-production.** The RIBA Stage 2 gateway on the Down Lane Park Improvement Project offered an opportunity to review the progress and direction of the project at that moment in time. Given the heightened interest in this project from local residents and stakeholders, officers recommended project work was paused at Stage 2 gateway and a change of direction was explored with a better chance of gaining the buy-in of the local community and securing a better outcome.
- 4.3 It was recognised at the time that co-design would require a complex set of skills beyond the requirements of the original brief which the previously appointed practice had tendered against. Consequently, approval was subsequently **sought and granted under Director's Delegated Authority** to terminate their contract and set about procuring a project team

selected for their expertise and proven track record in designing and delivering parks/landscape and building design within participative or co-design models.

- 4.4 Levitt Bernstein Associates Ltd, recognised as an industry leader in community engagement and participatory design processes, and one of the high scoring bidders from the original (May 2020) procurement process, was invited to tender for this opportunity on 25.02.2022. This procurement was run **via Notting Hill Genesis' Framework Agreement**, attracting fixed and competitive fee rates that provide value for money. This single supplier, direct award **tender exercise has been undertaken in close consultation with the Council's procurement team and in accordance with the Council's Procurement Code of Practice and Contract Standing Orders.**
- 4.5 The quality element of **Levitt Bernstein's tender has been evaluated by a four-person** Evaluation Panel, including representatives from Regeneration, Parks & Leisure, and Urban Design. The Price and Resourcing element of their tender has been evaluated by a two-person Panel, including representatives from Procurement and Regeneration. The collective recommendation of the two Panels is to appoint Levitt Bernstein Associates Ltd.
- 4.6 Given the change in scope, shift to a co-design model, and different estimated construction contract values, **it is difficult to directly compare Levitt Bernstein's** (Mar 2022) resourcing schedule and fee proposal to those submitted as part of the original tender exercise in May 2020 across RIBA Stages 2-6. However, a comparison of the **'lump sum'** fee proposals for RIBA Stage 2-4 indicates a 6% increase on the median price across the seven submissions received via the May 2020 competitive tender exercise. This 6% increase reflects the change to a co-design approach, which is expected to be longer, require an increased number of meetings, and entail a more iterative design process. The benefits of this approach are that they will help to ensure a higher level of community buy-in and secure higher quality outcomes for the area and the community.
- 4.7 **In terms of resourcing, Levitt Bernstein's** tender submission includes additional disciplines and skills required to deliver an integrated approach to this co-design project, working closely with the community and local stakeholders, including:
- **Urban Designer (to assess and ensure integration with the parks' surrounds)**
 - Sustainability Specialist (to advise on ultra-low energy and whole life carbon design)
 - Lighting Consultant (focused on a solution that supports safety, whilst respecting wildlife)
 - Access Consultant (to review designs and ensure they are fully accessible)
 - Graphic Designer (to ensure engagement and communication materials are accessible and user friendly)
- 4.8 In order to minimise the risk of abortive work and expenditure, the contract with Levitt Bernstein Associates will be structured to make provision for:
- Development of masterplan options for the whole park, with preferred option(s) designed to RIBA Stage 3, with planning permission secured if required.
 - Prioritisation of priority packages of work to be developed through RIBA Stages 4, 5 & 6.
 - The overall value of the contract will be capped at £497,659, with the above approach allowing for flexibility in how the work is progressed post RIBA Stage 3.

5. Contribution to strategic outcomes

Priority 2: People

Our vision is a Haringey where strong families, strong networks and strong communities nurture all residents to live well and achieve their potential

Priority 3: Place

Our vision is for a place with strong, resilient, and connected communities where people can lead active and healthy lives in an environment that is safe, clean, and green.

Priority 5: Your Council

The way we engage with our residents, businesses and partners, the quality of our workforce and the way we serve our customers are fundamental to enabling us to achieve the overall aims of the Borough Plan.

6. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**6.1 Finance**

6.1.1 The recommendation of the report is to accept a tender submission from Levitt Bernstein via the Notting Hill Genesis Framework Agreement CF1 Lot 3 (landscape architects). As explained in the report, a decision was made to go for a direct award rather than to expose the opportunity to wider competition. The proposed contract contains break clauses that enable the council to pause spend on the project should the anticipated S106 contributions not materialise.

6.1.2 The council has received £0.255m of S106 contribution and is due to receive a further £1.275m during 2022/23 so in theory there will be sufficient resource to fund the contract, However, the exact timing of S106 contributions are subject to a range of factors that can affect when they are received. Monitoring of both the expenditure and the S106 contributions will be need to ensure that they are matched.

6.2 Legal

6.2.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of the report.

6.2.2 The contract which this report relates to has been procured by a direct award from a Notting Hill Genesis framework. Strategic Procurement have confirmed this complies with **the Public Contracts Regulations 2015 and the Council's Contract Standing Orders.**

6.2.3 Pursuant to Contract Standing Order 9.07.1(c) a Director has authority to approve the award of contracts valued less than £500,000.

6.2.4 The Head of Legal and Governance (Monitoring Officer) sees no legal reasons preventing the Director of Housing, Regeneration and Planning from approving the recommendations in the report.

6.3 Procurement

6.3.1 Strategic Procurement note the content of the report. The procurement has been conducted in line with the authorities Contract Standing Orders and the Public Contractor regulations.

- 6.3.2 The procurement has been conducted via Notting Hill Genesis Framework Agreement CF1 Lot 3. Direct awards are permissible under the framework. Levitt Bernstein were selected as per 5.2. of the framework particulars: where the Call Off Contract has substantial similarities to a previous project in which the Framework Consultant was involved.
- 6.3.3 The fees proposal has been assessed, it is under the ceiling framework rates and has been benchmarked against recent similar proposals to determine it is value for money.
- 6.3.4 Strategic Procurement endorse the proposed appointment of Levitt Bernstein as noted in the report.

7. Use of Appendices

None.

8. Local Government (Access to Information) Act 1985

Not applicable

Important Additional Guidance on Accessibility

- Documents must be available for Councillor Hearn at the **same time** as for all other Councillors
- **The council's primary typeface, Helvetica, should be used for all reports and accompanying documents, size 12 preferred (Arial font is also acceptable)**
- Text should be as plain as possible with no boxes around it, Microsoft Word is preferred, not PDF, and no abbreviations (such as Cllr.) and try to keep symbols to minimal use
- Roman numerals are not suitable for a person using a screen reader so please use normal paragraph numbering/ lettering and bullet points where necessary
- Reports should be written without images, however, where images are used, report authors must provide a text alternative in all cases (a short paragraph explaining what the graphs, table, pictures etc are showing). Detailed examples can be provided by contacting ayshe.simsek@haringey.gov.uk
- Appendices
 - All of the above applies for appendices and report authors should avoid including lengthy PDF documents as part of the report
 - In some cases an executive summary could be more appropriate if Councillor Hearn is on the committee
- Presentations – if PowerPoints are to be used then a Word version must be submitted in advance of the meeting (and at the same time it is made available to all other members)
- The Democratic Services Team will not accept reports which are not in an accessible format.
- In the rare event that a document is not in a fully accessible format the report author must submit, by the same report deadline, an accessible version for Councillor Hearn (if she is on the relevant committee)
- **Plain text documents should be saved with document names including "DATE TITLE COUNCILLOR HEARN PLAIN TEXT"**

Categories of Exemption

Exempt information means information falling within the following categories:

Part 1

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations or contemplated consultations or negotiations in connection with any labour relations matter arising

between the authority or a Minister of the Crown and employees of, or holders under, the authority.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

6. Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed upon a person; or (b) to make an order or direction under any enactment.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Part 2

Qualifications to the above exempt information:

(a) Information falling within paragraph 3 above is not exempt information under that paragraph if it is required under – (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) The Friendly Societies Act 1992 (d) The Industrial and Provident Societies Acts 1965 – 1978 (e) the Building Societies Act 1986 (f) The Charities Act 1993.

(b) Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

(c) Information which – (i) falls within any of paragraphs 1-7 above; and (ii) is not prevented from being exempt under (a) or (b) above is exempt information if so long as, in the opinion of the Monitoring Officer, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.