

[REDACTED]  
Ref: H202004868

Dear [REDACTED]

### Response to your request for official information

Thank you for your request under the Official Information Act 1982 (the Act) to the Ministry of Health (the Ministry) on 19 June 2020 for:

*"Request for information regarding the tendering process or contract letting of the development of the COVID-19 TRACER APP"*

*"Request for information regarding the steps taken to evaluate pre-existing pandemic contact tracing applications that existed within the current DHB's prior to commissioning the COVID-19 TRACER APP"*

Information in response to each part of your request is as follows.

*"Request for information regarding the tendering process or contract letting of the development of the COVID-19 TRACER APP"*

Two documents have been identified within scope of this part of your request and copies are enclosed. Please note, some information has been withheld under the following sections of the Act:

- 9(2)(b)(ii), as the release of this information would unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information; and
- 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty.

*"Request for information regarding the steps taken to evaluate pre-existing pandemic contact tracing applications that existed within the current DHB's prior to commissioning the COVID-19 TRACER APP"*

The Ministry has interpreted this part of your request, about pre-existing pandemic contact tracing applications, as referring to consumer-facing contact tracing applications. No such applications existed before the Ministry commissioned the development of the NZ COVID Tracer application. As such, your request for this information is refused under section 18(e) of the Act, as the information does not exist.

I trust this information fulfils your request. Under section 28(3) of the Act you have the right to ask the Ombudsman to review any decisions made under this request.

Please note that this response, with your personal details removed, may be published on the Ministry website.

Yours sincerely



Gaynor Bradfield  
**Manager, Office of the Deputy Director-General  
Data and Digital**

## Appendix A: List of documents for release

#	Date	Title	Decision on release
1	6 April 2020	Memo: Procurement Emergency Exemption COVID-19	Released with some information withheld under section 9(2)(b)(ii) of the Act, as the release of this information would unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information
2	9 April 2020	Memo: COVID-19 Response – Recommendation to contract with RUSH DIGITAL for provision of a public facing application support Contact Tracing	Released with some information withheld under the following sections of the Act: <ul style="list-style-type: none"> <li>• 9(2)(b)(ii), as the release of this information would unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information; and</li> <li>• 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty</li> </ul>

# Procurement Emergency Exemption Memo Covid-19

<b>Date:</b>	6 <sup>th</sup> April 2020
<b>To:</b>	Fergus Welsh Chief Financial Officer
<b>Copy to:</b>	Jon Herries Group Manager Data & Digital Emerging Technologies Clayton Cleary Manager Procurement and Contract Management, Finance
<b>From:</b>	Alan Barrett, Procurement Support
<b>Subject:</b>	Emergency Exemption to Government Procurement Rules for : Covid-19 public facing application supporting traceability
<b>For your:</b>	Decision

## Purpose

To seek approval for an Exemption from open advertising (Rule 14) under emergency procurement from the Government Procurement Rules requirement for openly tendering procurements over \$100,000.

Emergency Procurement is defined in the MBIE Brief Guide to Emergency Procurement. It includes;

- “critical health or environmental emergencies: such as a pandemic or food safety incident.”

## Need

Contact Tracing is an essential part of New Zealand’s COVID-19 response. Our ability to quickly locate people who have been in close contact with suspected or confirmed cases will dramatically limit the spread and impact of the virus. The main challenge currently being faced by health authorities in New Zealand is locating people quickly and correctly, due to out of date physical addresses or contact information. There are also several people who are in transient accommodation (e.g. motorhomes) or staying outside their normal place of residence.

The requirement statement is: “How can MOH get current phone numbers, potential *Close Contacts*, and other relevant information from people in New Zealand, to support the contact tracing process for COVID-19.”

Three potential providers have been identified, § 9(2)(b)(ii), Rush Digital Interactive Lt., and § 9(2)(b)(ii). The objective is to commission a public facing application designed to support the contract tracing process and roll out this application within two weeks.

## When

The objective is to provide access to this application and information that it can collect within two weeks.

## How

Both § 9(2)(b)(ii) and Rush have experience in this area and have developed solutions which may be appropriate as a base to build from. § 9(2)(b)(ii). Given the time scales to deliver § 9(2)(b)(ii) and Rush solutions are being explored through a closed competitive tender. § 9(2)(b)(ii) and Rush are aware that they are in a competitive bid process and have been given evaluation criteria and their weightings to help them in their response.

The two target companies, Rush and § 9(2)(b)(ii) have received our requirements, Confidentiality Agreement and have been briefed on how their responses will be assessed. The objective is to receive their proposals within the next 24 hours with a contract with a provider in the next 48 hours.

Overview	
<b>Project Title:</b>	Contact tracing application and information collection support
<b>Estimated Contract Value:</b>	§ 9(2) (b)(ii)
<b>Contract Start Date:</b>	9 <sup>th</sup> April 2020
<b>Agreement Term:</b>	For the duration of the Covid19 Pandemic response, assumed to be 3 months, with an option to extend for a further 3 months.  The All of life Costs for this exemption assume a contract duration of 6 months
<b>Business Unit:</b>	Data and Digital
<b>Contract Owner:</b>	Shayne Hunter Deputy Direct General Data and Digital
<b>Contract Manager:</b>	Jon Herries Group Manager Data & Digital Emerging Technologies
Government Procurement Rules	
<b>How does this procurement comply with valid Exemption to openly advertising in Rule 14.9 (a): Emergency?</b>	
<p>The current COVID-19 pandemic emergency is a valid reason to exempt this procurement from open tender. The pandemic response is supported by provision of an application to the general public who can provide information to support and quicken tracing efforts.</p> <p>Normal procurement would seek, through open tender, provider or providers who would deliver the application. At the end of the 6 months the service will end. Any decision to extend will require a further exemption.</p> <p>Three potential providers have been identified. Two, Rush and § 9(2) (b)(ii) have been selected for this closed tender briefed on our requirements and are in a competitive</p>	
Value for Money	
<b>Even though there is no competitive process proposed, how will 'fit for purpose' be determined?</b>	
<p>This a competitive closed tender with two providers preselected the Ministry.</p> <p>There will be a security and privacy assessment of the solution.</p> <p>The financial costs will be managed through an open book approach to costs incurred.</p> <p>The legal consideration is addressed though use of the Ministry of Health Goods and Services Contract.</p>	
Conflicts of Interest	
<b>Are Conflict of Interest Declarations on file for the nominator and approver of the proposed contract?</b>	
They will be prior to receipt of the formal responses	
<b>How are any actual or perceived conflicts of interest being managed?</b>	
Any perceived conflict will have management plan. Any actual conflict will require that person to withdraw from the procurement process.	
Budget	
<b>Is there a budget available to fund this contract? (Ensure you have spoken to your financial advisor)</b>	
Cost Centre	COVID-19 Response Cost Centre 1125

DE or NDE ?
-------------

Recommendation
----------------

<b>In summary, why should this exemption/opt-out be approved?</b>
---

<b>Approve</b> this request for Exemption because of the immediate need to provide a public facing application to the New Zealand Public to support contract tracing.
---

Approvals & Endorsements		
--------------------------	--	--

<b>Business Owner (Endorse)</b>	Shayne Hunter	Click here to enter text.
	Deputy Director- General Data and Digital	[Signature]
<b>Contract Owner (Endorse)</b>	Jon Herries Group Manager Data & Digital Emerging Technologies	Click here to enter text.
		[Signature]
<b>Procurement &amp; Contracts (Endorse)</b>	Clayton Cleary Manager Procurement and Contract Management, Finance	Click here to enter text.
		[Signature]
<b>Chief Financial Officer (Approve)</b>	Fergus Welsh	Click here to enter text.
	Chief Financial Officer	[Signature]

Requester Signature \_\_\_\_\_

Date:

Released under the Official Information Act 1982

# Memo



<b>Date:</b>	9 <sup>th</sup> April 2020
<b>To:</b>	Shayne Hunter Deputy Director-General Data and Digital
<b>From:</b>	Jon Herries. GM Data and Digital Emerging Technologies Alan Barrett, Procurement Advisor, Mental Health and Addiction
<b>CC:</b>	Clayton Cleary Manager Corporate Services Finance, Procurement and Contract Management Gautam Mangar Project Manager Data and Digital
<b>Subject:</b>	COVID 19 Response – Recommendation to contract with RUSH DIGITAL for provision of a public facing application supporting Contact Tracing.

## Purpose

This memo seeks your approval to contract with RUSH DIGITAL for the provision of a public facing application supporting existing Contact Tracing. This application would be available for an initial 3 months with an option to extend for a further 3 months if required.

## Background

The Government's 17 March COVID-19 response package included a dedicated \$500 million fund to strengthen health services to fight and contain COVID-19.

A key component of this response effort will be the development and implementation of a public facing application that will provide support to the existing Contact Tracing efforts.

Two potential providers were considered to support this. They were Rush Digital and [REDACTED]. Both companies had contacted the Ministry directly with proposals.

Speed to deliver is a key requirement. Both Rush and [REDACTED] had existing applications that could be modified to speed delivery. A series of meetings with both providers explored their solutions and "fit for purpose". It was decided to ask for proposals from Rush and [REDACTED] under a closed tender competitive bid. An exemption from open tendering was approved.

This memo provides;

1. High level information of the process taken,
2. The results of a formal assessment of their responses,
3. The reason for recommending Rush as the provider, subject to due diligence, (now completed and reported on in this memo),
4. Appendices covering our requirements as presented to the respondents,
5. Rush response, and
6. Ministry cost view of the likely overall cost for the 6 months of the proposed contract

## Process

A series of meetings with both Rush and [REDACTED] have occurred. This led to a requirements power point being sent to both parties along with information on how the Ministry would assess their response. (See appendix 1 and 2). **Appendix 1 and 2 withheld in full under section 9(2)(b)(ii)**

A confidentiality Agreement was signed by all parties. Both Rush and [s 9(2)(b)(ii)] were given an opportunity to ask questions. At that question and answer session they were informed that any material answers would be shared with all parties. Only one material question required to be shared, the length of the proposed contract, which is 3 months plus an option of 3 months extension.

The Ministry assessors, (See Appendix 3), were asked to complete a Conflict of Interest Statement. There were no conflicts for those assessors used. Tender responses were sent to the assessment team along with instructions on how the assessment would be run.

For RUSH tender response see Appendix (4) **Appendix 3 and 4 withheld in full under section 9(2)(b)(ii)**

The assessment took place on the 8<sup>th</sup> April from 10.30 to 12.30. The process followed was:

- Confirmation if any conflicts
- Each assessor, in turn, scored each section for Rush and gave reasons why they chose that score. These reasons were documented.
- Where there was a spread of scoring between the minimum and maximum scores given then the outlier score was "defended" by the relevant assessor.
- Agreement on score was then reached across all assessors. Any changes made have been recorded. There were no dissents on the agreed scores.
- Weighting for each section was applied
- This process was repeated for [s 9(2)(b)(ii)]
- The provider with the highest score, in this case Rush. Rush's response was discussed amongst the group to gain the groups view of any risk areas that would need to be explored through contract negotiation. Particular attention was paid to the clinical observations.
- A unanimous agreement was used to recommend Rush as the potential partner subject to due diligence

Details of the scoring, by assessor, for both Rush and [s 9(2)(b)(ii)] are included in Appendix (5) **Appendix 5 withheld in full under section 9(2)(b)(ii)**

### Summary of assessment

In summary Rush scored an unweighted score of [s 9(2)(b)(ii)] out of a possible 20. [s 9(2)(b)(ii)] out of a possible 20.

The weighted scores were Rush [s 9(2)(b)(ii)] out of a possible 5 and [s 9(2)(b)(ii)] were [s 9(2)(b)(ii)]. A score of 3 gave

*Confidence. "The Proposal provides sufficient evidence to clearly substantiate that the Respondent can meet the Requirements and demonstrates some strengths in relation to the evaluation criteria."*

### Due diligence

Michael Dreyer spoke to [s 9(2)(b)(ii)] about Rush as a provider. [s 9(2)(b)(ii), s 9(2)(g)(i)]  
[s 9(2)(b)(ii), s 9(2)(g)(i)]

[s 9(2)(b)(ii)]



**Project Costs**

**A. Rush cost to develop and provide release and updates for the first 3 months of the contract**

The Rush development is based on a 3 months contract for build cost and support.

**3 Month Rush Cost**

Investment cost over an 8-week execution and 3 month contract	s 9(2)(b)(ii)
Web application deployment	
Mobile Application development – iOS + Android	
<b>Total build cost</b>	
<b>On-going costs</b>	
Estimate of Monthly cost for month 2 and 3 – release and updates	
<b>Total Cost estimate</b>	

**Benefit**

The Benefit of the RUSH proposal is in three area;

1. s 9(2)(b)(ii)
2. [Redacted]
3. [Redacted]

**Support for a further 3 months**

Ongoing support at level3 for a further 3 months will be negotiated as a separate contract if required.

s 9(2)(b)(ii) [Redacted]

**B. Total cost of ownership estimate including Rush and the Ministry for a 6-month contract**

Cost for the full 6 months including RUSH and Ministry costs is s 9(2)(b)(ii) Appendix (6) details this breakdown.

Appendix 6 withheld in full under section 9(2)(b)(ii)

**Areas of risk to be managed**

The risks that will need to be managed through contract negotiation and contract management are tabled below.

s 9(2)(b)(ii) [Redacted]

s 9(2)(b)(ii)

**Funding**

Funding is under COVID-19 Response cost centre 1125

**Recommendations**

1.	Approve	Appoint RUSH to develop the public facing applications as defined in the Ministry's requirements and their response for a three plus three contract	Yes / No
2.	Approve	A separate contract, to be negotiated with RUSH if level 3 support is required beyond the initial 3 months of the contract	Yes / No
3.	Note	The Deputy Director-General, Data and Digital has delegated authority for the expenditure of funds in accordance with Ministry of Health Rules and Guidelines up to \$25 million.	

**Reviewers**

Name Clayton Cleary and Tom Shanks

**Endorsed**


Signature:

Date: 7 May 2020

Name Jon Herries.

Title: Group Manager, Data and Digital Emerging Technologies

**Approved**

Signature: 

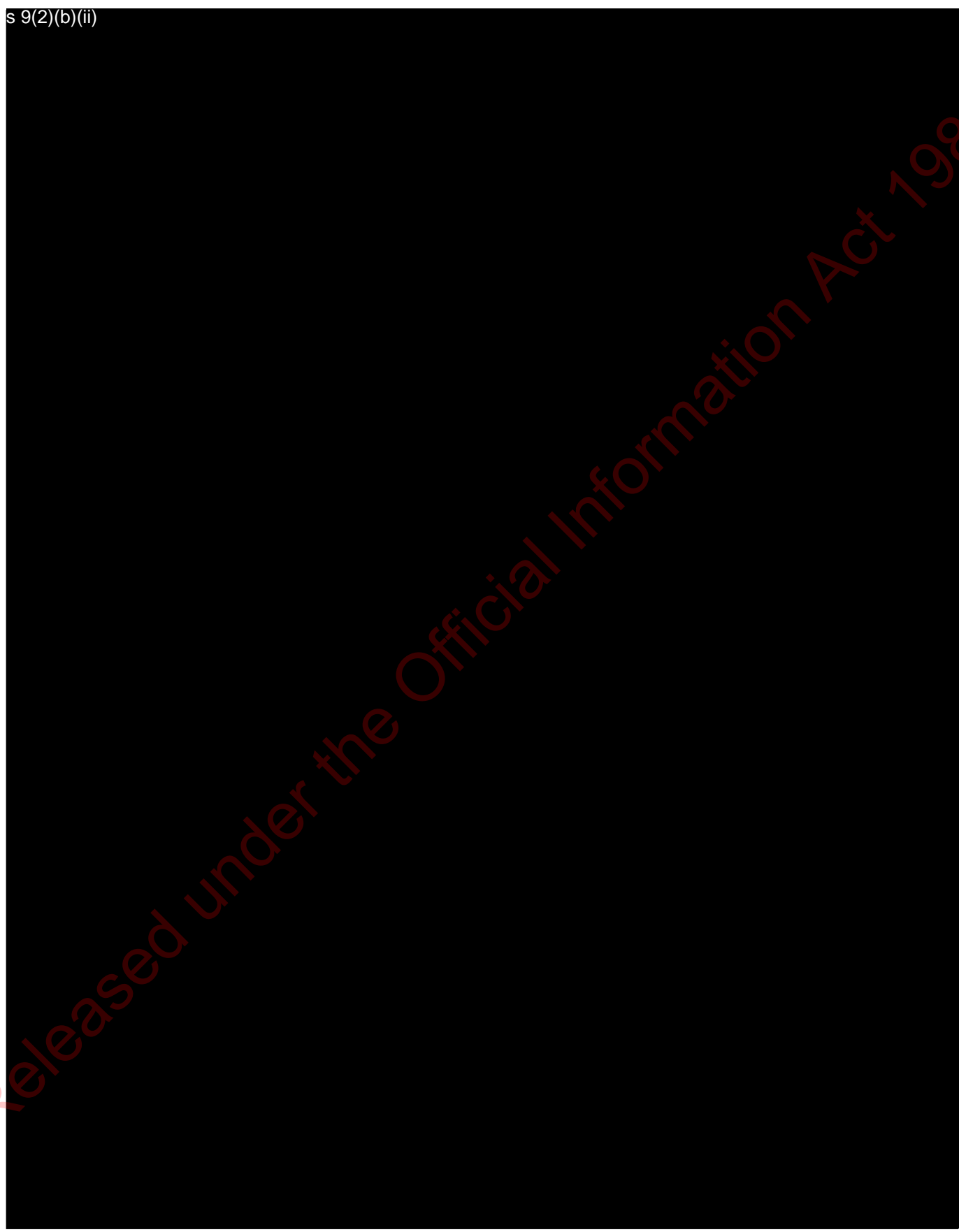
Date: 7 May 2020

Name: Shayne Hunter

Title: Deputy Director-General, Data and Digital


Appendix 1 – Requirements

s 9(2)(b)(ii)



Released under the Official Information Act 1982

s 9(2)(b)(ii)



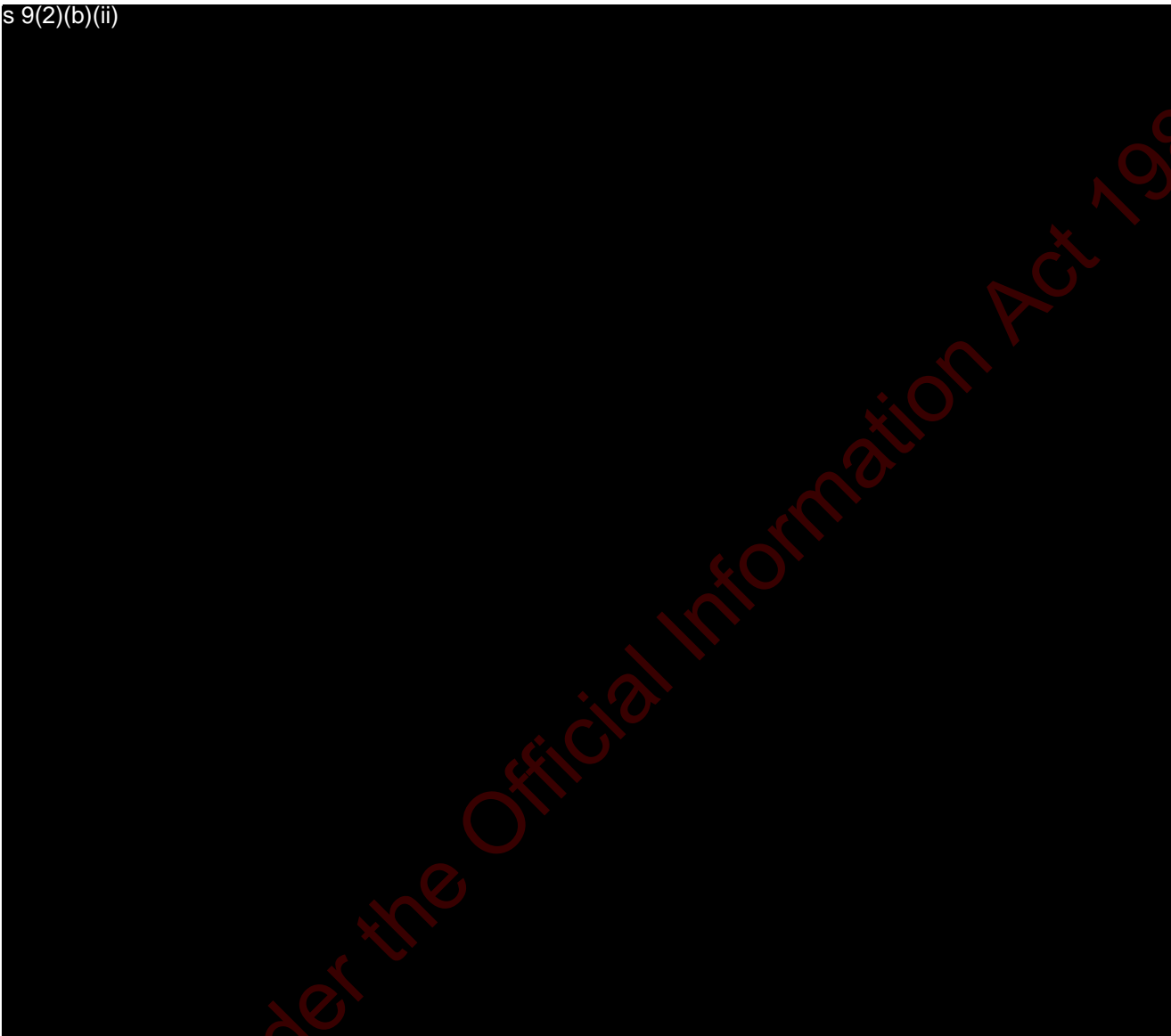
Released under the Official Information Act 1982

s 9(2)(b)(ii)

Released under the Official Information Act 1982

**Appendix 6 - Estimate of Total Cost - Project and support over a 6 month contract duration**

s 9(2)(b)(ii)



Released under the Official Information Act 1982