



National Audit Office

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THE NAO'S CONTRACT REGISTER

Thank you for your request of 4 November 2022 for information relating to the National Audit Office's (NAO)'s contracts register. Your specific request is reproduced at **Annex A**.

Your request is being handled under the terms of the Freedom of Information Act 2000 (FOIA).

We can confirm that we hold some information in scope of your request.

The information we hold on NAO Contracts is provided in an Excel spreadsheet attached to this letter's cover email. The register contains all procurement including those under £10,000 that has not been published on Contracts Finder. We have provided the information to the extent that we hold it, and our internal contract listing may not contain all the information that you requested. While the FOIA provides a legal right of access to recorded information held by a public authority, subject to certain exemptions that may apply, the FOIA does not oblige us to create or obtain information we do not hold.

We have redacted some personal information under Section 40(2) and some commercially sensitive information under Section 43 of the FOIA. Details of these exemptions, how they apply to your request, and our consideration of the Public Interest Test in relation to S.43 can be found at **Annex B**.

You may also wish to consult information that is publicly available on the published contract finder [database](#) which can be searched by authority name and filtered by various criteria. This information covers those contracts we are required to publish. For example, those covered in Find a Tender Service (FTS)

In response to your request for the contact details for the person responsible for the Contract Data/API, we can confirm that our Head of Procurement can be contacted at NAO.Procurement@nao.org.uk should you have any further queries. I hope you find this response helpful. **Annex C** sets out the steps you may wish to take if you are not satisfied with the way we have handled your request for information under the FOIA.

Yours sincerely,

NAO Team

Annex A

Request for NAO Contract Register

(Your request in italics)

"I would like to submit a request for some information from the organisation, in relation to their contract's register. The FULL contract register should display all the organisations existing/live contracts I would like the register to display the following columns/headings:

- 1. Contract Reference -Unique reference number associated with the contract.*
- 2. Contract Title*
- 3. Procurement Category –Please state the category name of the contract, I wish to know the category the contract is under.*
- 4. Supplier Name*
- 5. Spend (Total, Annual or contract value)*
- 6. Contract's Duration*
- 7. Contract's Extensions*
- 8. Contract's Start Date*
- 9. Contract's Expiry Date*
- 10. Contract Description [Please provide me with as much detail as possible.]*
- 11. Contact Owner (Person that manages the contract register)*
- 12. CPV codes/Pro-Class*

Contract Data/API Contact Details

- 1. Can you also provide me with contact details of the person responsible for the actual contract's register or someone responsible for API? [Name, Job Title, Telephone, Email Address] At the very least provide me with their actual job title.*
- 2. (Meaning of API "a set of functions and procedures that allow the creation of applications which access the features or data of an operating system, application, or other service.")*

IMPORTANT

- 1. If the organisation has a CRM system or a similar system, there should be a facility to download and extract contract data.*
- 2. You may forward me a Weblink to a portal to download the contract register, please make sure all the organisation's contracts are provided as doing prior research I have found that most organisations have only uploaded a small portion of all their contracts.*
- 3. For those organisations planning to make an exemption around spend, the spend information I have requested is an overall figure and I am not requesting a complete breakdown of services relating to the spend.*

Please provide me with the contract's register file in an excel format.

Annex B

Section 40, Freedom of Information Act 2000 – Personal information

Section 40, paragraphs 1-4, of the Freedom of Information Act 2000 (FOIA) provides that:

- (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.*
- (2) Any information to which a request for information relates is also exempt information if—*
- (a) it constitutes personal data which does not fall within subsection (1), and*
- (b) the first, second or third condition below is satisfied.*
- (3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—*
- (a) would contravene any of the data protection principles, or*
- (b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.*
- (3B) The second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR (general processing: right to object to processing).*
- (4A) The third condition is that—*
- (a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018, or*
- (b) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.*

The exemption applies because:

We have applied this exemption to the personal details of National Audit Office officers contained in our information related to this request.

We are not obliged, under Section 40(2) of the FOIA to provide personal information that is the personal information of another person if releasing it would contravene any of the provisions of the Data Protection Act 2018.

In this instance we believe the release of the names of individual NAO officers would contravene the first data protection principle which is that the processing of personal data must be lawful, fair and transparent. Processing in this context includes disclosure and therefore we consider section 40(2) is engaged.

However, we feel we have considered any legitimate need and have provided a contact email of NAO.Procurement@nao.org.uk if you or anyone else has a query about our contracts.

In this instance we do not believe it would be fair to the individual officers to disclose this personal information. This exemption is absolute and is not subject to the public interest test.

Section 43 – Freedom of Information Act 2000 - commercial interests

Section 43 of the Freedom of Information Act 2000 (FOIA) provides that:

(1) Information is exempt information if it constitutes a trade secret.

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

(3) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).

The exemption applies because:

We have applied this exemption to commercially sensitive information contained in column J, Description of goods/services, of the spreadsheet being released.

We consider some of the information to be commercially sensitive and therefore, we have redacted parts of this information under the Section 43(2) (commercial interests) exemption of the FOIA.

We have considered the prejudice to both the National Audit Office (NAO) and our suppliers. There is a risk that release of the sensitive information we have redacted would prejudice the NAO's ability to negotiate in a commercial environment and attract unique bids for any future contracts. In addition, disclosing sensitive pricing information and contract particulars may well cause other suppliers to decline to bid for future NAO contracts (if they believe that we will disclose the exact details of their pricing structure, for example, to their competitors under the FOIA) and therefore may prove detrimental to the NAO achieving adequate competition in tenders published in the future.

In turn this would reduce the NAO's ability to obtain value for money and may result in a less advantageous outcome for the taxpayer. Therefore, we have concluded the release of the information we have redacted would prejudice the commercial interests of the NAO and our existing suppliers, and that Section 43(2) (commercial interests) of the FOIA is engaged.

Reasons why the public interest in maintaining the exclusion outweighs the public interest in disclosing the information:

Having concluded the Section 43(2) (commercial interests) exemption of the FOIA is engaged we have considered the balance of the public interest. We recognise that there is a strong public interest in organisations operating with openness and transparency.

However, this needs to be weighed against the public interest in protecting commercial interests and strong competition. We are releasing the vast majority of the information that describes the goods and services that are the subject of each contract and have only redacted those parts of the information that we deem to be highly sensitive, and which would be useful to our existing contractors' competitors. Competitors would be able to take advantage of our existing suppliers' commercial information, causing detriment to one supplier over another, and this would not be in the public interest.

In conclusion we believe that maintaining the exemption outweighs the public interest in disclosing information.

Annex C

Statement of Policy

Our policy is to respond to requests made under the Freedom of Information Act 2000 as helpfully and promptly as possible, having regard to the principles set out in the Act. I therefore hope you are happy with the way we have handled your request. If you are not, then you should take the following steps.

In the first instance, within 40 working days, write to the National Audit Office Freedom of Information (FOI) Team at FOI.requests@nao.org.uk or by post to:

FOI Team, Green 2, National Audit Office, 157-197 Buckingham Palace Road, London, SW1W 9SP

The Manager of FOI will arrange a review, which will be conducted by a senior member of staff who was not involved in decisions relating to your original request. Once the review has been completed, we will write informing you of the outcome.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

<https://ico.org.uk/> or Information Commissioner's Office Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF