



National Audit Office

The UK's independent public spending
watchdog

Switchboard +44 (0)207 798 7000

Direct Line +44 (0)207 798 7264

Email FOI@nao.org.uk

Reference FOI-1618

Date 5th June 2023

CALL OFF CONTRACTS IN THE PUBLIC SECTOR

Thank you for your request of 14th May 2023 for information about call-off contracts awarded by the National Audit Office.

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

Your specific request is set out at **Annex A** and we have supplied our responses in the excel spreadsheet attached with this letter.

We can confirm that we hold the information requested from column 'H' of the attached excel spreadsheet which you provided us to complete, including any comments relating to the specific contract. Please note, we do not hold the information requested within column 'I' of the attached excel spreadsheet.

Annex B provides details of the exemption we have applied to a part of your request; we 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 FOI Team

Annex A

Request for information about NAO's Call-off Contracts

"I would like to make a freedom of information request.

I am doing a research project investigating call-off contracts in the public sector. I have identified some potential call-off contracts awarded by the National Audit Office, but I can't find details of the framework agreements they were awarded from.

I have attached an Excel file that contains the information I am looking at. The last two columns ("Title of framework used" and "Contracts Finder or TED link of framework agreement") is where I am missing information - please could you fill these in.

Please note that I have identified these contracts as possible call-off contracts, so some of them might not be. Some could be, for instance, procured directly (without being called off from a framework agreement), or could be themselves notices of the establishment of a framework agreement. Therefore I would kindly ask you to specify in these incidences what kind of procurement was used in the "Title of framework used" column.

I have provided the title, description, details of the email contact from the notice, the publication date, and procedure type used to award each potential call-off, as well as a URL link to the call-off in question and a unique reference ID for each potential call-off. Please let me know if there is anything else you need to complete the request.

If you do not feel like this request could be completed in good time, please could you work down the list and do as much of a subset as you can?"

Annex B

This annex sets out the exemption that we have applied to your request.

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.

Reasons why we have applied this exemption

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 direct contact details of the National Audit Office officer 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. We do not believe it would be fair to the individual officers to disclose this personal information and so this information has been withheld. This exemption is absolute and is not subject to the public interest test.

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 Head 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 primary way of escalating your concerns to the Information Commissioner is at: www.ico.org.uk/foicomplaints. Alternatively you can contact the ICO at <https://ico.org.uk/> or Information Commissioner's Office Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF.