



National Audit Office

The UK's independent public spending
watchdog

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Reference FOI-1691
Date 15 February 2024

DHSC CONTRACTS FOR PPE

Thank you for your request of 31 January 2024 for a list of the 32 contracts for PPE that were cancelled, terminated, or rejected by the Department of Health and Social Care (DHSC), referred to in our audit '[Investigation into the management of PPE contracts](#)'. Your request has been considered under the terms of the Freedom of Information Act 2000 (FOIA).

Your original request has been reproduced in **Annex A** for reference. We can confirm that we hold information within the scope of your request. The contracts that were cancelled, terminated, or rejected by DHSC are highlighted in the Excel spreadsheet attached with this response. This is an updated version of the spreadsheet we sent to you in response to your previous FOI request (FOI-1679).

Please note that this information was provided to the National Audit Office (NAO) by DHSC at a point in time covering the period up to January 2022. DHSC has indicated that some of these 32 contracts have since performed to varying degrees and would not now be categorised as rejected, cancelled, or terminated. The NAO has no further information on how the contracts have performed since the information was provided to us.

We have withheld information about one contract which we consider to be exempt from disclosure under section 33 (public audit functions) and section 23 (security bodies) or section 24 (national security) of FOIA. Details of these exemptions, how they apply to your request, and our consideration of the public interest test where applicable can be found at **Annex B**.

I hope the information provided is 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 FOIA.

Yours sincerely,

NAO FOI Team



Annex A

Request for information about DHSC PPE contracts:

“I'm writing to you under the Freedom of Information Act (2000) to ask that you please disclose to me a list of the 32 contracts cancelled, terminated, or rejected by DHSC, valued at £400m, as laid out in Note 6 to Figure 4 on Page 17 of your report 'Investigation into the management of PPE contracts' please.

I'd like the format laid out as it was previously for the request number FOI-1679, so feel free to identify them in an updated version of this spreadsheet.”

Annex B

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

1) Section 33 Freedom of Information Act 2000 – Public Audit

Section 33 provides that:

(1) This section applies to any public authority which has functions in relation to -

(a) the audit of the accounts of other public authorities, or

(b) the examination of the economy, efficiency and effectiveness with which other public authorities use their resources in discharging their functions.

(2) Information held by a public authority to which this section applies is exempt information if its disclosure would, or would be likely to, prejudice the exercise of any of the authority's functions in relation to any of the matters referred to in subsection (1).

Reasons why we have applied the section 33 exemption:

We have applied the section 33 exemption to information we hold about one of the 32 contracts within the scope of the request. This information was supplied to us by DHSC for our '[Investigation into the management of PPE contracts](#)' and we believe that disclosing this specific information under FOIA would prejudice our access to such information in future.

Having consulted with DHSC they have stated that release of information about this specific contract would be detrimental and it should not be disclosed. Where an audited body raises reasonable concerns about the disclosure of their information, then we consider the implications for the future conduct of our public audit functions should we release it.

An effective, efficient audit is supported through an open and constructive approach between the NAO and the audited body. As such it is critically important that we have a safe space to gather information and knowledge and can engage in a free and frank way with audited bodies. The release of this information would remove this safe space - precipitating a backdrop of increased challenge and procedure around requests for audit information. This would require the NAO to formally assert our statutory access rights more frequently and potentially seek to enforce them, leading to significant delay, escalation of issues and increased audit costs.

Section 17(3) of the Budget Responsibility and National Audit Act 2011 places a duty on the C&AG to “aim to carry out functions effectively and cost effectively”. Given the above factors, we consider that our disclosure of the information requested would be at odds with this statutory requirement – it would serve to undermine the effectiveness and increase the cost of the C&AG's public audit functions.

For the reasons set out above, we consider it appropriate to apply the public audit exemption available under Section 33(2) of the FOIA.

Reasons why the public interest in maintaining the exemption outweighs the public interest in disclosing the information in this case:

The NAO is independent of government and scrutinises public spending on behalf of Parliament. Our work serves the public interest by helping Parliament hold government to account, providing transparency on matters of public interest and driving improvement in the use of public resources.

We recognise that there is a public interest in knowing the use of public money is subject to appropriate levels of accountability and transparency. However, we consider that disclosure of sensitive audit evidence supplied to the NAO by DHSC in pursuit of our statutory functions would impair the audit process for the reasons set out above. Departments would be reluctant to engage in a full and frank exchange of information with us which would delay and diminish the audit process.

In this instance the information was used to inform our audit '[Investigation into the management of PPE contracts](#)' which has been published on our website. The NAO's work puts information into the public domain and helps Parliament hold government to account. In our view, the balance of public interest rests with the NAO being able to deliver an effective and efficient public audit function and report our findings in public.

2) Sections 23 and 24, Freedom of Information Act 2000 – security exemptions

Section 23 provides that:

(1) Information held by a public authority is exempt information if it was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).

Section 24 provides that:

(1) Information which does not fall within section 23(1) is exempt information if exemption from section 1(1)(b) is required for the purpose of safeguarding national security.

Reasons why we have applied the sections 23 or 24 exemptions:

We have withheld information about one contract under the section 23(1) or 24(1) exemptions, applied in the alternative in accordance with the Information Commissioner's guidance linked below:

<https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/how-sections-23-and-24-interact/>.

Reasons why the public interest in maintaining the section 24 exemption outweighs the public interest in disclosing the information in this case:

As stated above, there is a public interest in knowing the use of public money is subject to appropriate levels of accountability and transparency. However, in respect of this contract, we consider the public interest in safeguarding national security outweighs the public interest in disclosure.

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@nao.org.uk or by post to:

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

The FOI and Correspondence Manager 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.