



National Audit Office

The UK's independent public spending
watchdog

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Reference FOI-1729

Date 23 July 2024

CONTRACTS REGISTER, PROCUREMENT STRATEGY AND CONTACT DETAILS

Thank you for your request of 26 June 2024 asking for information about NAO contracts, our procurement strategy, and the contact details of the NAO officer(s) responsible for API or data sharing and our contracts register.

I can tell you that we hold some information in scope of your request. The information we hold on NAO contracts is provided in an Excel spreadsheet attached with this response. The register contains all procurement including contracts under £10,000 that have not been published on [Contracts Finder - GOV.UK \(www.gov.uk\)](https://www.gov.uk/contracts-finder). We have provided the information to the extent that we hold it. Our internal contract listing does not contain all the information that you requested. While the Freedom of Information Act (FOIA) provides a legal right of access to recorded information held by a public authority, subject to certain exemptions that may apply, it does not oblige us to create or obtain information we do not hold.

We have redacted a small amount of personal information under Section 40(2) and 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 A**.

In relation to the second part of your request, I can confirm that we do not have a procurement strategy and therefore this information is not held.

Finally, regarding your request for the contact details of the person responsible for the API/data sharing or contracts register, 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 B** 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,

FOI and Correspondence Officer

157-197 Buckingham Palace Road, Victoria, London SW1W 9SP
020 7798 7000 www.nao.org.uk



Cert No. 8835

ISO 14001

Annex A

This annex sets out the exemptions 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.*

The exemption applies because:

We have applied this exemption to the personal data of NAO officers included within the scope of this request, namely the contract owners in Column K of the spreadsheet being released, details in one row of the spreadsheet which relate to an inward secondee, and the names and direct contact details of NAO officers.

We are not obliged, under Section 40(2) of the FOIA, to provide personal information that relates to 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 information about individual NAO officers would contravene the first data protection principle which requires the processing of personal data to be lawful, fair and transparent.

We do not believe it would be fair to the individual officers to disclose their personal information and we therefore consider section 40(2) is engaged. This exemption is absolute and is not subject to the public interest test.

However, we have considered any legitimate interest in disclosure of the information and have provided a contact email (NAO.Procurement@nao.org.uk) should you or anyone else have a query about our contracts.

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 a small amount of information contained in Column K (Description of Goods/Services) of the spreadsheet being released. We consider this information to be commercially sensitive and we have therefore redacted it under the Section 43(2) (commercial interests) 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 contract particulars may well cause other suppliers to decline to bid for future NAO contracts 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 and being accountable for the spending of public money.

However, this needs to be weighed against the public interest in protecting commercial interests and strong competition. We are releasing the vast majority of information describing the goods and services being provided for each contract and have only redacted those parts of the information that we deem to be 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 this information.

Annex B

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 & 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: <https://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.