



[REDACTED]

30 August 2022

Dear [REDACTED]

**Freedom of Information request: FOI2022/00251**

Thank you for your Freedom of Information request received on the 29 July in which you requested the following:

**Your request:**

*Please can you tell me how many of the Innovate UK Monitoring Officers are also Grant Consultants or offer 'grant consultancy' on the side/as part of their other work?*

*We have a come across a number and this seems like a clear conflict of interest - giving them access to Clients and confidential IP.*

**Our response**

I can confirm UK Research and Innovation (UKRI) do not hold the information relevant to your request as this information is not routinely collated.

However, we would like to assure you that Innovate UK has mechanisms in place for managing potential conflicts of interests between Monitoring Service Provision and other interests that the Monitoring Service Provider (MSP) (also known as Monitoring Officers) may have. This is outlined in the MSP terms and conditions of service. Under these terms and conditions MSPs are required to declare conflicts of interest at the point of applying to be assigned to a project. For your reference, an extract of the relevant sections of the terms and conditions are provided with this response as Annex 1. These sections address conflicts of interest, intellectual property rights, confidentiality and official secrets.

Innovate UK do not restrict MSPs from also working as consultants, but do not expect them to bid on the same project in which they were acting in a consultancy capacity. This would be considered a conflict of interest and the application would not be approved. MSPs are further required to abide by the T&Cs of service in relation to conflicts of interest, intellectual property and confidentiality.

Innovate UK retains the right to terminate contracts where there is a conflict of interest and MSPs are bound to maintain the duty of confidence relating to any confidential information disclosed to them as discussed in the terms and conditions. The terms and conditions also confirm that any confidential information of Innovate UK or project participants cannot be used by MSPs for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract without prior consent in writing. Similarly, the terms and conditions confirm that Intellectual Property generated or acquired by the MSP, or any sub-contractors in the performance of the Monitoring Services or arising out of the Contract would belong to and vest in the relevant authority.

If you have any queries regarding our response or you are unhappy with the outcome of your request and wish to seek an internal review of the decision, please contact:

Head of Information Governance


Email: [foi@ukri.org](mailto:foi@ukri.org) or [infogovernance@ukri.org](mailto:infogovernance@ukri.org)

Please quote the reference number above in any future communications.

If you are still not content with the outcome of the internal review, you may apply to refer the matter to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the review procedure provided by UKRI. The Information Commissioner can be contacted at: [www.ico.org.uk](http://www.ico.org.uk).

If you wish to raise a complaint regarding the service you have received or the conduct of any UKRI staff in relation to your request, please see UKRI's complaints policy: <https://www.ukri.org/about-us/policies-and-standards/complaints-policy/>

Yours sincerely,

  
Information Governance  
Information Rights Team  
UK Research and Innovation  
[foi@ukri.org](mailto:foi@ukri.org) | [dataprotection@ukri.org](mailto:dataprotection@ukri.org)

## **Annex 1: FOI2022/00251: Extract: Monitoring Service Provider Terms and Conditions of service**

### **Regarding conflicts of interest:**

#### **13 CONFLICT OF INTEREST**

- 13.1 The Monitoring Service Provider shall ensure that there is no conflict of interest likely to prejudice its independence and objectivity in performing the Contract and undertakes that upon becoming aware of any such conflict of interest during the performance of the Contract (whether the conflict existed before the award of the Contract or arises during its performance) it shall immediately notify the Authority in writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as the Authority may reasonably require.
- 13.2 Where the Authority is of the opinion that the conflict of interest notified to it under paragraph 13.1 above is capable of being avoided or removed, the Authority may require the Monitoring Service Provider to take such steps as will, in its opinion, avoid, or as the case may be, remove the conflict and:-
  - 13.2.1 If the Monitoring Service Provider fails to comply with the Authority's requirements in this respect; or
  - 13.2.2 If, in the opinion of the Authority, it is not possible to remove the conflict, the Authority may terminate the Contract immediately. For the avoidance of doubt, the Authority shall cover the Monitoring Service Provider's reasonable costs following termination of the Contract under this paragraph 13.2.2.
- 13.3 Notwithstanding paragraph 13.2, where the Authority is of the opinion that the conflict of interest which existed at the time of the award of the Contract could have been discovered with the application by the Monitoring Service Provider of due diligence and ought to have been disclosed as required by the Invitation to Tender pertaining to it, the Authority may terminate the Contract immediately for Material Breach under paragraph 20.1 and, without prejudice to any other rights, recover from the Monitoring Service Provider the amount of any reasonable direct losses resulting from such termination.
- 13.4 The Monitoring Service Project can undertake work as either an Assessor or Monitoring Officer, but must not do both for the same project within a competition at any one time.

### **Regarding Intellectual Property Rights:**

#### **14 INTELLECTUAL PROPERTY RIGHTS**

- 14.1 Subject to any pre-existing rights of the parties (which shall remain with the party that introduced such rights) the Intellectual Property Rights in all reports, documents and other materials which are generated or acquired by the Monitoring Service Provider or any of its sub-contractors (the "Materials") in the performance of the Monitoring Services or arising out of the Contract shall belong to and vest in the Authority.
- 14.2 The Monitoring Service Provider warrants to the Authority that all of their staff, and sub-contractors are and will be engaged in relation to the Contract on terms which do not entitle any of them to any Intellectual Property Rights in the Materials, and which require them to waive all moral rights.
- 14.3 If the Monitoring Service Provider in providing the Monitoring Services uses any materials in which there are pre-existing Intellectual Property Rights owned by itself, its agents, sub-contractors or third parties, it shall itself provide, or procure from such sub-contractor or third party a nonexclusive licence for, or, if the Monitoring Service Provider is itself a licensee of those Intellectual Property Rights, it shall grant a sub-licence to, the Authority to use, reproduce, modify, adapt and enhance the material as the Authority sees fit. Such licence or sub-licence shall be perpetual and irrevocable and granted at no cost to the Authority.
- 14.4 The Authority shall have the sole right to use any information (whether or not it is Confidential Information) collected or collated pursuant to the Contract (excluding any information which in the opinion of the Authority is confidential to the Monitoring Service Provider or which has been communicated to the Monitoring Service Provider under a condition that it shall be confidential to the Monitoring Service Provider), and all original documents in whatever form which contain that information, including all recording and data storage media, any voice recording and any special computer program written to give access to the information, shall on request be deposited with the Authority.

## **Regarding Confidentiality:**

### **15 CONFIDENTIALITY**

- 15.1 The Monitoring Service Provider undertakes to keep in strict confidence all Confidential Information which is disclosed to it under the Contract, and at any time, and for a period of ten years after termination of this Contract, shall not disclose to any person any Confidential Information concerning the business, affairs, customer, clients or Service Providers of the Authority or the Project Participants, except as permitted by paragraph 15.2.
- 15.2 The Monitoring Service Provider may disclose the Authority's or the Project Participants' Confidential Information:
  - 15.2.1 to its Key Personnel, employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Monitoring Service Provider's rights or carrying out its obligations under or in connection with this Contract. The Monitoring Service Provider shall ensure that its Key Personnel, employees, officers, representatives or advisers to whom it discloses the Authority's or the Project Participants' Confidential Information comply with this paragraph 15; and
  - 15.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 15.3 Information that:
  - 15.3.1 was public knowledge or already known to the Monitoring Service Provider at the time of disclosure; or
  - 15.3.2 subsequently becomes public knowledge other than by breach of the Contract; or
  - 15.3.3 subsequently comes lawfully into the possession of the Monitoring Service Provider from a third party; or
  - 15.3.4 is agreed by the parties not to be confidential or to be disclosable, shall not be deemed Confidential Information for the purpose of the Contract.
- 15.4 The Monitoring Service Provider shall not without the prior consent in writing of the Authority, use the Authority's or the Project Participants' Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 15.5 The Monitoring Service Provider shall not handle or examine any document or thing bearing the Authority or Government security classification of "Secret" or "Top Secret" other than in a Government establishment and the Monitoring Service Provider shall not remove any such document or thing from such Authority establishment without the prior written consent of the Authority.
- 15.6 The Monitoring Service Provider shall not communicate with representatives of any press, radio, television or other communications media, with regard to the Project, the Project Participants, the Contract or the provision of the Monitoring Services, unless previously agreed in writing with the Authority.
- 15.7 Upon the termination of this Contract for whatever reason the Monitoring Service Provider shall, unless notified otherwise by the Authority or required by law, destroy or return to the Authority on suitable media all Confidential Information within a reasonable timeframe to be agreed between the parties, but in any event no longer than 10 working days.

## **Regarding the Official Secrets Act:**

### **16 OFFICIAL SECRETS**

- 16.1 The Monitoring Service Provider shall comply with the provisions of:
  - 16.1.1 the Official Secrets Act 1911 to 1989 (and for the avoidance of doubt, the Monitoring Service Provider acknowledges that by entering into this Contract it shall abide by the relevant restrictions of the Official Secrets Act 1911 to 1989); and
  - 16.1.2 section 182 of the Finance Act 1989.