



[REDACTED]

3 August 2022

Dear [REDACTED],

**Internal Review request: IR2022/00170**

Thank you for your Internal Review request received on the 3 May 2022 which related to our response to your FOI request FOI2022/00062. For ease of reference we have included the question from your original Freedom of Information request.

**Your internal review request:**

*Regarding the section 12 exemption, I don't believe this to be valid as the retrieval of this information should not, in my opinion, take this much time.*

*These contracts are, by most public sector organisations, kept track of within contract registers. I don't believe that searching for the contracts that I've requested should take that long to search for and provide, as simply searching for the departments I requested in the contract register should bring up the information requested.*

*I would like to submit an internal review, as I don't think that it is a reasonable assessment to make, that the process of handling this request would take up to this amount of time and money.*

*Please treat this as a request for an internal review.*

**Original Request FOI2022/00062**

*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. (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.*

#### **Outcome of the Review**

For the purposes of this internal review we have considered the request afresh and the exemption applied in our original response under Section 12 (appropriate cost limit).

The review has established that while some information continues to fall under the exemption at Section 12, the majority of the information can be made available as explained below.

The information that we are now able to provide has been extracted from a procurement portal that holds information on all UKRI managed contracts. This information is attached as document “IR2022/00170 Live contracts export”. Some information in this document has been withheld under the following exemptions which are explained below.

- Section 38 health and safety
- Section 31 law enforcement
- Section 42 legal professional privilege
- Section 40(2) personal data
- Section 12 cost threshold

#### **Section 38(1)(b) endangerment to the safety of any individual**

Information on a small number of contracts has been withheld under Section 38(1)(b) of the FOIA, as we consider that disclosure would, or would be likely to endanger the safety of any individual. Section 38 is a qualified exemption and UKRI is required to consider whether the public interest in maintaining the exemption outweighs the public interest in its disclosure.

#### **Public interest in favour of disclosure**

- It would further the understanding and participation in the public debate on issues concerning public procurement.
- It would promote accountability and transparency by public authorities for decisions taken with regard to public expenditure.
- It would promote accountability and transparency in allowing individuals, organisations and other bodies to understand decisions made by public authorities about public authority budgeting and expenditure.

#### **Public interest in favour of withholding the information**

- The disclosure of information relating to companies or suppliers may put at risk the safety of individuals or any organisations associated with information contained in this release.

- Disclosure of the identified information would make it available to individuals or organisations that may use this information to disrupt research or operations being conducted, but also to target individuals or groups of suppliers by subjecting them to either physical harm or verbal harassment.
- UKRI has an obligation to protect information that may endanger the safety of suppliers and ensure there is no harm from the release of contract information.
- Disclosure is likely to draw attention that is unwarranted, stressful and harmful to individuals that would be likely to endanger their safety.

We have therefore concluded, taking the above arguments into consideration, that the public interest in maintaining the exemption outweighs the public interest in disclosure; therefore the information is exempt from disclosure.

### **Section 31(1)(a) prevention or detection of crime**

We also consider that releasing information on some IT contracts would prejudice the prevention or detection of crime as per Section 31(1)(a) of the Freedom of Information Act.

Section 31(1)(a) is a qualified exemption and therefore subject to a public interest test. UKRI applied the Public Interest Test to this request as set out below.

#### **Public interest in favour of disclosure**

- There is a public interest in favour of release of the information, to uphold the principles of transparency and accountability, in disclosing information about government or public authority infrastructure and contracts

#### **Public interest test in favour of withholding the information**

- The release of this information may result in UKRI being more vulnerable to crime.
- The release of this information would be seen to prejudice the prevention or detection of crime, by making UKRI's computer systems more vulnerable to hacking and therefore facilitate the possibility of a criminal offence being carried out.
- There is an overwhelming public interest in keeping government or public authority computer systems secure, which would be served by non-disclosure.

We have therefore concluded, taking the above arguments into consideration, that the public interest in maintaining the exemption outweighs the public interest in disclosure; therefore the information is exempt from disclosure.

### **Section 42(1) legal professional privilege**

A limited amount of information has been redacted under Section 42(1) legal professional privilege. Section 42(1) is a qualified exemption and we have undertaken a public interest test to determine whether the public interest outweighs the requirement to maintain legal professional privilege.

#### **Public interest in favour of disclosure**

- There is a general public interest in the disclosure of information to ensure transparency and openness of a public organisation.
- There is a requirement by UKRI to be accountable and transparent in its processes and decision making. Releasing contract information on the nature of legal advice may shed light on the decisions taken by UKRI.

#### **Public interest in favour of withholding the information**

- There is a strong public interest in protecting information on the type of legal advice received, which is considered to be confidential and to protect the ability for UKRI to be able to seek out legal advice.

- Without such confidentiality, a public authority's decision making may be compromised. Confidentiality between professional legal advisors and clients is the foundation of legal and professional privilege as it ensures open, honest and frank exchanges between the client and the advisor.
- This confidentiality would be undermined by the disclosure of the reasons for the legal advice through the release of this type of information in contract details, which would disadvantage UKRI in any legal proceedings.

We have therefore concluded, taking the above arguments into consideration, that the public interest in maintaining the exemption outweighs the public interest in disclosure; therefore the information is exempt from disclosure.

We can confirm that the information you have requested for the following questions have been provided in the attached document: 1 (contract reference), 2 (contract title – in this case project), 3 (procurement category - in this case parent category), 4 (supplier name), 5 (spend – in this case contract value), 6 (contract duration – can be calculated from contract start and end dates), 7 (contract extensions), 8 (contract start date), 9 (contract expiry (end) date).

### **Section 40(2) Personal data**

We consider that Information relating to question 11 (contract owner – in this case tender issuer) and API contact details falls under Section 40(2) personal data of the FOI Act. Section 40(2) exempts personal information from disclosure if that information relates to someone other than the applicant, and if disclosure of that information would, amongst other things, contravene one of the data protection principles in Article 5(1) of the UK General Data Protection Regulation (UK GDPR) and Section 34(1) of the Data Protection Act 2018. In this case, we believe disclosure would contravene the first data protection principle, which provides that processing of personal data is lawful and fair.

Section 40(2) is an absolute exemption and UKRI is not obliged to consider whether the public interest favours disclosing the information.

### **Section 12 cost threshold**

We consider that for information relating to question 10 (contract description) and 12 (CPV codes/Pro-class) the exemption under Section 12 (appropriate cost limit) continues to apply. We estimate that the cost of collating the information as requested would exceed the appropriate statutory limit as specified within Section 12 of the FOIA which for UKRI is set at £450. This represents the estimated cost of 18 hours of staff resource on locating, retrieving and extracting the information.


To explain further, locating and extracting this information would require a manual check of each individual contract. We have estimated that to review individual contracts in our procurement portal would greatly exceed the cost threshold, and involve around 100 hours. This is based on an estimate of approximately 5 mins to find and record the contract description and CPV code from each contract.

Consequently, UKRI is not obliged under Section 12 of the FOIA to respond to your request.

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  
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