



[REDACTED]

16 September 2022

Dear [REDACTED]

Freedom of Information request: FOI2022/00267

Thank you for your Freedom of Information request received on the 15 August in which you requested the following:

Your request:

My company would like to submit a freedom of information request for a list of companies that have applied for and been accepted into Innovate UK's Dynamic Purchasing System of Monitoring Service Providers. In addition, we would be interested to know details of how many other companies applied but were unsuccessful.

Our response

I can confirm UK Research and Innovation (UKRI) hold the information relevant to your request. Please see the information attached (*FOI2022/00267 List of successful companies*) in relation to companies that applied for and were accepted into Innovate UK's Dynamic Purchasing System of Monitoring Service Providers.

We consider that information relating to individuals' names (where an individual applies under their own name rather than a company name) 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.

There were 84 unsuccessful applications to the Dynamic Purchasing System for Monitoring Service Providers.

In relation to your request for details of how many other companies applied but were unsuccessful, we believe the information you have requested falls under the exemption at Section 43(2) of the FOI Act. This exemption is used where disclosure would likely result in a person's (an individual, a company the public authority itself or any other legal entities) commercial interests being prejudiced.

Section 43(2) is a qualified exemption, and we are required to carry out the public interest test in favour of or against releasing the information.

Public interest in favour of disclosure

- There is a general public interest in the disclosure of this information to ensure transparency and openness of a public organisation.

- There is also a public interest in transparency in order to ensure the accountability of public organisations and how they spend public funding.

Public interest in favour of withholding the information

- There is a public interest in protecting commercially sensitive information including the names of unsuccessful bidders for Innovate UK Monitoring Service Providers (MSP) application processes.
- This is confidential information and release would prejudice UKRI's capacity to successfully attract companies to participate in any future application processes.
- Releasing information provided in confidence to UKRI is likely to damage the possibility of ongoing relationships with other organisations. Relationships may become untenable if third parties cannot be certain that their commercial information will remain confidential when held by UKRI.
- Breaching the commercial interest may also adversely affect future negotiation opportunities for UKRI. UKRI may be seen as a 'confidentiality' risk if it routinely releases information relating to business arrangements into the public domain, particularly where this is third party information.

Having considered the balance of the public interest in releasing and withholding the information we have concluded that the public interest in favour of maintaining the exemption at section 43(2) commercial prejudice outweighs the public interest in disclosure.

The information on unsuccessful company names also falls under the exemption at section 41(1) of the FOI Act, information provided in confidence. As companies submit their bids in confidence, we consider that the names of unsuccessful companies are exempt under Section 41 of the FOIA. To explain further, companies submit their MSP bids in confidence with the understanding that details of their application will remain confidential, where unsuccessful. If released we believe it would result in an actionable breach of confidence. As this exemption is absolute there is no requirement to conduct a public interest test.

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 or 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.

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 | dataprotection@ukri.org