



[REDACTED]

29 November 2021

Dear [REDACTED],

**Freedom of Information request: FOI2021/00503**

Thank you for your Freedom of Information request received on the 24 November in which you requested the following:

**Your request:**

CA Reference code: 2509368

*I would be most grateful if you would provide, under the Freedom of Information Act (FOIA), details in respect to the contract below. This is to help facilitate market research into those companies that have not been successful in securing this public sector contract. Please would you also acknowledge receipt of this FOI request by replying to this email within the next three working days.*

*Gb-Swindon: Ukri-1561 Scanning Electron Microscope. The awarded tender details can be viewed [here](#)<sup>1</sup>.*

*Please provide the following:*

- *The suppliers who applied for inclusion on each framework/contract and who were unsuccessful at the PQQ & ITT stages  
Insert company names here: (Please add more where applicable)*
- *Duration of Framework/contract (Insert duration in months here):*

**Our response**

I can confirm UK Research and Innovation (UKRI) hold information relevant to your request.

In relation to your request for the company names of the suppliers who applied for inclusion on each framework/contract and 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.

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<sup>1</sup> <https://app.contractsadvance.co.uk/release/2509368>

## 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 UKRI procurement processes.
- This is confidential information and release would prejudice UKRI's capacity to successfully attract companies to participate in any future procurement 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 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 contract or procurement 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.

Regarding part 2 of your request for the duration of the framework/contract, this information falls under section 21 of the FOI Act, information already reasonably accessible. This information is already available in the public domain on [contracts finder](#)<sup>2</sup>, where you will find information on the start and end date of the contract. Section 21 is an absolute exemption which means that 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](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: <http://www.ico.gov.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

<sup>2</sup> <https://www.contractsfinder.service.gov.uk/notice/922753f2-8a49-4c56-b500-e4e9ebccde2c?origin=SearchResults&p=1>

Information Rights Team  
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