Dear Mr Smith,

Freedom of Information Request Reference FOI-1274677

Thank you for your request dated 19 November 2020 in which you asked the Department of Health and Social Care (DHSC):

“Dear Department of Health and Social Care,

Dear Government Procurement Service,

The NAO has recently reported that firms recommended by MPs were given priority and fast tracked under emergency procurement rules that bypassed the normal competitive tendering rules. Please may I have the following information, preferably in spreadsheet form if possible.

1) Information on the contracts awarded under the emergency procurement rules with any of the following information that you have: a) Title of contract; b) Estimated Value; c) Categorisation of goods or services provided; d) Name of supplier; e) Payments made to the supplier to the end of whatever your last financial reporting period is.

2) Information on the suppliers recommended by MPs under the emergency procurement rules with any of the following information that you have: a) Name of MP who recommended suppliers; b) Suppliers recommended by that MP”

Your request has been handled under the Freedom of Information Act (FOIA).

**Question 1: Information on the contracts awarded under the emergency procurement rules with any of the following information that you have: a) Title of contract; b) Estimated Value; c) Categorisation of goods or services provided; d) Name of supplier; e) Payments made to the supplier to the end of whatever your last financial reporting period is.**

I can confirm that the Department holds information relevant to your request.

However, as the information in relation to questions a) to d) held by the Department is in the public domain in the form of published Contract Notices and the Contracts themselves we will, under Section 21 of the FOIA (information accessible to the applicant by other means), refer you to the published source.

[https://www.gov.uk/contracts-finder](https://www.gov.uk/contracts-finder)
With respect to question e) we consider that detailed information on the payments for delivery against individual contracts is exempt under Section 43 of the FOIA, which exempts from the general duty to release information which would, or would be likely to, prejudice the commercial interests of any entity, including the public authority holding the information.

Section 43 is a qualified exemption and, as such, we are required to assess the public interest in withholding this information against that of its release. We recognise a general public interest in this area. However, we also take into account the fact that this information is commercially sensitive, and we consider that releasing this information would not be in the public interest, as it would prejudice future commercial relations with suppliers and our ability to secure best value for money if this information were to be disclosed into the public domain.

Question 2: Information on the suppliers recommended by MPs under the emergency procurement rules with any of the following information that you have: a) Name of MP who recommended suppliers; b) Suppliers recommended by that MP.

I am writing to advise you that following a search of our paper and electronic records, I have established that DHSC holds some of the information you have requested and who referred them (although not all of this information is available).

All offers of Personal Protective Equipment (PPE) went through the same thorough eight step technical and commercial assurance processes, whether they were received by the high priority appraisals team or were received through other avenues. The Government publishes all qualifying contracts and our transparency publications show where government money is going so it can be scrutinised. Details of Government contracts above £10,000 are published on Contracts Finder: Contracts Finder - GOV.UK (www.gov.uk)

This is the standard way in which the public is informed about which companies have won Government contracts and appropriate details of these contracts can be found through that route.

The remainder of the information you request is exempt from disclosure in accordance with Section 43(2) (prejudice to commercial interests) of the FOIA.

In terms of the suppliers, under Section 43(2) of the Act, information is exempt information if its disclosure would, or would be likely to, prejudice the commercial interests of companies; in this instance we consider that it would so prejudice the interests of the companies who were referred through the high priority lane.

Section 43(2) is a qualified exemption, and I have therefore considered whether the balance of the public interest favours disclosing or withholding this information.

There is a strong public interest in openness and transparency, particularly with reference to accountability for spending public money. Furthermore, private sector companies engaging, or seeking to engage, in commercial activities with the public sector must expect some information about those activities to be disclosed.

Considerations against disclosure include the recognition that disclosure may damage a supplier’s reputation, affecting the supplier’s competitive position in their respective market and confidence that its customers, suppliers or investors may have in its commercial operations. Disclosure of a list of the suppliers would be likely to deter potential bidders for future contracts from competing as they would potentially face adverse publicity unrelated to the terms of their particular contracts or ability to deliver contracted outcomes. This would therefore negatively impact the quality and quantity of Governments’ supplier base, as future potential suppliers would be deterred by the
prospect of unsuccessful aspects of their tenders being open to publication. DHSC, and indeed Government, must retain commercial confidence of third-party potential suppliers when they choose to engage in commercial activities with us. The release of this information may jeopardise this commercial confidence.

In terms of the individual who provided the recommendation for a supplier into the high priority lane, s43(2) applies also to individuals in that disclosure would make it less likely that individuals would provide DHSC with commercially sensitive information in the future and consequently undermine the ability of the DHSC to fulfil its role.

Having carefully considered the above considerations, I have determined that it is not in the public interest to prejudice the commercial interests of relevant suppliers or name individuals who referred leads in. As such the information you have requested in this respect has been deemed exempt from disclosure under section 43(2) of the Act. However, as noted above, contracts awarded to suppliers which have been through all the Department’s different procurement exercises have been or are being published on Contracts Finder and are available for scrutiny there.

If you are not satisfied with the handling of your request, you have the right to appeal by asking for an internal review. This should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to the address at the top of this letter, or the email address at the end of this letter.

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of your internal review, you may complain directly to the Information Commissioner’s Office (ICO). Generally, the ICO cannot make a decision unless you have already appealed our original response and received our internal review decision. You should raise your concerns with the ICO within three months of your last meaningful contact with us.

The ICO can be contacted at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow SK9 5AF

https://ico.org.uk/concerns

Yours sincerely,

Ed Franklyn
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