



Homes
England

Date: 27 April 2022

Our Ref: RFI3838

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

Making homes happen

By Email Only

Information Governance Team
Homes England
Windsor House – 6th Floor
50 Victoria Street
London
SW1H 0TL

Dear [REDACTED]

RE: Request for Information – RFI3838

Thank you for your request for information which was processed in accordance with the Freedom of Information Act 2000 (FOIA).

You requested the following information:

I would be most grateful if you would provide me, under the Freedom of Information Act, details in respect to the contract below.

Homes England Land Survey Framework:

<https://gbro1.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.contractsfinder.service.gov.uk%2FNotice%2F117969b6-6a06-46fe-8043-54e3e48b6ed5&data=04%7C01%7Cinfogov%40homesengland.gov.uk%7Cco47396c1d8d4305498e08da17abe125%7Cfaa8e2690811453882e74d29009219bf%7C0%7C0%7C637848324349337771%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikh1haWwiLCJXVCI6Mno%3D%7C3000&sd=KgszCi%2B2jHb1oXyoEhpiuNTKHzdSwNgL72ly8NGsbqo%3D&reserved=o>

The details we require are:

- *What are the contractual performance KPI's for this contract?*
- *Suppliers who applied for inclusion on each framework/contract and were successful & not successful at the PQQ & ITT stages*
- *Actual spend on this contract/framework (and any sub lots), from the start of the contract to the current date*
- *Start date & duration of framework/contract?*
- *Could you please provide a copy of the service/product specification given to all bidders for when this contract was last advertised?*

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- *Is there an extension clause in the framework(s)/contract(s) and, if so, the duration of the extension?*
- *Has a decision been made yet on whether the framework(s)/contract(s) are being either extended or renewed?*
- *Who is the senior officer (outside of procurement) responsible for this contract?*

Response

We can confirm that we do hold some of the information you have requested. We will address each of your questions in turn.

• ***What are the contractual performance KPI's for this contract?***

We can confirm that Homes England does not hold the information detailed in your request.

To conclude that the information is not held, we have searched with our Consultant Frameworks team and responsible contract manager who would have the requested information if held.

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty under section 1(1) is only to provide the recorded information held.

The full text of section 1 in the legislation can be found here:

<https://www.legislation.gov.uk/ukpga/2000/36/section/1>

Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. To comply with this duty we are able to confirm that no KPIs were set for this Framework and therefore none are recorded.

• ***Suppliers who applied for inclusion on each framework/contract and were successful & not successful at the PQQ & ITT stages***

Successful Applicants:

Section 21 – Information available elsewhere

We are able to inform you that we do hold the information that you have requested. However, we rely on section 21, exemption where information is available to the applicant elsewhere.

The full text of the legislation can be found on the following link:

<https://www.legislation.gov.uk/ukpga/2000/36/section/21>

Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. As such, we can confirm that the list of suppliers who applied for a place on the framework and were successful at PQQ and ITT stages are available on the following link: [Homes England Land Survey Framework 2019-2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/homes-england-land-survey-framework-2019-2023).



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Unsuccessful Applicants:

Section 41 – Information provided in confidence

Under section 41(1)(b) of the FOIA Homes England is not obliged to disclose information to the public if it would constitute a breach of confidence.

Unsuccessful applicants applied to Homes England for inclusion on the panel in confidence and with the expectation that their applications would not be publicly disclosed. To disclose the names of unsuccessful applicants would be likely to lead to the public being able to infer details of these companies' financial status and future business plans.

Although section 41 of the FOIA is an absolute exemption and there is no requirement to conduct a full public interest test, we can confirm that we have considered the public interest in disclosure as a breach of confidence may not be actionable if there is an overriding public interest in that disclosure. In regard to the unsuccessful applicant names we feel that there is no overriding public interest in favour of disclosure.

The full text of the legislation can be found on the following link;

<https://www.legislation.gov.uk/ukpga/2000/36/section/41>

Section 43 - Commercial interests

Furthermore, we also consider that the information is exempt from disclosure under section 43(2) of the FOIA. This exempts information whose disclosure would, or would be likely to, prejudice the commercial interests of any legal person (an individual, a company, the public authority itself or any other legal entity). We consider that the publication of the names of unsuccessful applicants is likely to be damaging to their commercial interest as they will be perceived as not having met the standard for appointment to the framework. This may affect their ability to win other business particularly from public sector bodies. Moreover, Homes England's own commercial interests may be prejudiced when Homes England procures frameworks in the future as the publication of the identity of unsuccessful bidders would be highly likely to deter firms from bidding to our frameworks. This would undermine the ability of Homes England to procure services from the market competitively.

Section 43(2) is a qualified exemption. Homes England must consider whether the public interest in maintaining the exemption outweighs the public interest in its disclosure (i.e. there is a presumption in favour of disclosure). We have applied the public interest test and have concluded that the information should not be disclosed. We have had regard to the Commissioner's Decision FS50387747 in which it was stated that "The Commissioner does not consider that there is a legitimate public interest in disclosing the names of unsuccessful bidders. As contracts were not awarded to the unsuccessful bidders there is no legitimate interest in understanding how public money is being spent".

The full text of the legislation can be found on the following link:

<https://www.legislation.gov.uk/ukpga/2000/36/section/43>

- **Actual spend on this contract/framework (and any sub lots), from the start of the contract to the current date**

The actual spend to date is £200,564. There are no sub lots.

- **Start date & duration of framework/contract?**

The start date was 04/04/2019.

The duration is exempt under S21, exemption where information is available to the applicant elsewhere.



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The full text of the legislation can be found on the following link:

<https://www.legislation.gov.uk/ukpga/2000/36/section/21>

Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. As such, we can confirm that this information is available on the following link: [Services - 514887-2018 - TED Tenders Electronic Daily \(europa.eu\)](https://www.europa.eu).

• ***Could you please provide a copy of the service/product specification given to all bidders for when this contract was last advertised?***

We can confirm that we do hold this information, which is attached as Annex A.

• ***Is there an extension clause in the framework(s)/contract(s) and, if so, the duration of the extension?***

The Framework Agreement provides that the scope of the Services may be extended or varied at any time by Homes England, by notice in writing served upon the Consultant, to the extent that Homes England considers such extension or variation to be necessary.

• ***Has a decision been made yet on whether the framework(s)/contract(s) are being either extended or renewed?***

We can confirm that Homes England does not hold the information detailed in your request.

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty under section 1(1) is only to provide the recorded information held.

The full text of section 1 in the legislation can be found here:

<https://www.legislation.gov.uk/ukpga/2000/36/section/1>

Advice and Assistance

In order to provide Advice and Assistance in accordance with Section 16 of the FOIA we can confirm that no decision has been made.

• ***Who is the senior officer (outside of procurement) responsible for this contract?***

Section 40 – Personal information

We are withholding information on the grounds that it constitutes third party personal data and therefore engages section 40(2) of the FOIA.

To disclose personal data, such as names, contact details and email addresses could lead to the identification of third parties and would breach one or more of the data protection principles.

Section 40 is an absolute exemption which means that we do not need to consider the public interest in disclosure. Once it is established that the information is personal data of a third party and release would breach one or more of the data protection principles, then the exemption is engaged.

The full text in the legislation can be found on the following link;

<https://www.legislation.gov.uk/ukpga/2000/36/section/40>



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Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. We can advise that correspondence in relation to this framework can be submitted to our enquiries team via:

enquiries@homesengland.gov.uk or 0300 1234 500. Further information on Homes England frameworks can be found via the following link: [Homes England technical and property frameworks - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/homes-england-technical-and-property-frameworks).

Right to Appeal

If you are not happy with the information that has been provided or the way in which your request has been handled, you may request an internal review. You can request an internal review by writing to Homes England via the details below, quoting the reference number at the top of this letter.

Email: infogov@homesengland.gov.uk

The Information Governance Team
Homes England – 6th Floor
Windsor House
50 Victoria Street
London
SW1H 0TL

Your request for review must be made in writing, explain why you wish to appeal, and be received within 40 working days of the date of this response. Failure to meet this criteria may lead to your request being refused.

Upon receipt, your request for review will be passed to an independent party not involved in your original request. We aim to issue a response within 20 working days.

You may also complain to the Information Commissioner's Office (ICO) however, the Information Commissioner does usually expect the internal review procedure to be exhausted in the first instance.

The Information Commissioner's details can be found via the following link:

<https://ico.org.uk/>

Please note that the contents of your request and this response are also subject to the Freedom of Information Act 2000. Homes England may be required to disclose your request and our response accordingly.

Yours sincerely,

The Information Governance Team
For Homes England

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Land Survey Framework 2019-2023

1. Scope of Services

Provide a broad range of site survey services and advice in relation to development, construction, housing, regeneration new build and refurbishment projects including, but not necessarily limited to:-

- 1.1 Undertake 1:500 and 1:200 scale topographic surveys of Greenfield / Brownfield land. Finished data to be supplied in 2D and 3D AutoCAD formats.
- 1.2 Undertake the setting out and checking of site boundaries, landscaping and small works.
- 1.3 Update and modify existing topographic surveys in AutoCAD 2D and 3D formats.
- 1.4 Establish and maintain survey control networks, from initial site survey through to as built surveys of completed works.
- 1.5 Undertake measured building surveys including floor plans, elevations, cross sections and roof plans. Finished data to be supplied in 2D and 3D AutoCAD formats.
- 1.6 Undertake the detection, verification and mapping of underground utilities and services. Finished data to be supplied in 2D and 3D AutoCAD formats.
- 1.7 Undertake building, infrastructure and utilities surveys utilising laser scanning technology. Finished data to be supplied in 2D and 3D AutoCAD formats.
- 1.8 Undertake GIS data capture utilising mobile survey technology. Finished data to be supplied in ESRI shape file format.
- 1.9 Undertake structural monitoring projects.
- 1.10 All work to be completed to Homes England survey specifications.
- 1.11 Survey areas range in size from small individual development sites to large areas of several hundred hectares. All work to be related to OS National Grid via GPS control or existing ground stations.

2. General Services

2.1 Management of team

- Act as lead consultant, manage sub-consultants and other consultants appointed directly by the client where instructed.
- Directly employ and manage relevant third-party companies and contractors as required to undertake the discharge of any of this service.
- Provide a single point of contact to report to the client.
- Liaise as necessary with client, consultant(s), legal and project teams and advise as necessary.
- Adhere to all policies of Homes England and any issued ways of working and protocols. Respond to any consultations/queries issued.

2.2 Stakeholder Management

- Liaise, negotiate and work collaboratively with statutory and other stakeholders.

2.3 Research Studies

- Advise, prepare, organise and submit desk top studies and reports.
- Preparation presentation material for exhibitions the press and presentation both on hard copy and electronically.
- Research, advise and present impacts of emerging legislation and best practice guidance including sustainability issues.
- Assist the client with the preparation of good practice guidance and research and help the client in the promotion of this material.
- Providing lessons learned and market intelligence.

2.4 Health and Safety

- Adhere to all Health & Safety, Environmental and other relevant statutory requirements and/or regulations and advise the client of any obligations, restrictions or areas where enforcement action may arise thereof.

2.5 Promotional Material Services

- Provide mapping, graphic design or drawing preparation services for publication to hard or electronic copy.
- Undertake actual layout design or provide appropriate input to the preparation of reports and publications.
- Provide publication design services or arrange for and manage the printing, duplication, binding and distribution of publications as appropriate.

2.6 Policy and Strategy Advice and Reports

- Monitor and reporting on existing and emerging government policy, innovation, research and practice in relation to all aspects of housing, regeneration and development.
- Monitor and advise the client on Government legislation relating to the specific areas of services delivered.
- Advise, support and represent the client at public enquiries.
- Provide input for inclusion of development policy and information for statutory Planning Documents.

2.7 Contract Advice

- Provide advice on contractual or other legal matters and where relevant complete legal documentation in consultation with the client's legal advisors.

2.8 Procurement

- Maintain a full working knowledge of public competition, tendering and financial rules in order to advise clients appropriately.
- Prepare tender documents, manage tender process including site visits by bidders, assess and shortlist bidders and recommend proposed winning bidder.
- Manage construction appointments, including programme and financial control.

2.9 Training

- Development of and provision of training for Homes England Staff and stakeholders.

2.10 Staffing

- Provision of secondees to work as members of Homes England staff.