

**Public**

Ref: FOI/24/0038

National Energy System Operator

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Dear requester

**Request for Information**

Thank you for your request for information which we received on 3<sup>rd</sup> February 2025. Your request has been managed under the Environmental Information Regulations 2004 (EIR). This is because we have determined that the information requested meets the definition of 'environmental information' at Regulation 2(1).

**Request**

The information you asked us for, in relation to Contracts for Difference (CfD), was:

- 1) *Transcripts of all forms of contact (including but not limited to meetings, emails, electronic messages and telephone calls) to and from NESO regarding the award of the contracts under AR6 to Hornsea Project 3.*
- 2) *Copies of all internal working papers regarding the checking, approval and award of the contracts under AR6 to Hornsea Project 3.*

**Our response**

NESO, as the Electricity Market Reform Delivery Body, is responsible for running the CfD application and allocation process.

Information about NESO's responsibilities in the CfD Scheme is available in the drop-down tab 'Our responsibilities in the CfD Scheme' on this webpage: [Electricity Market Reform \(EMR\) Delivery Body | National Energy System Operator](#).

Further information on CfD is available here: [Contracts for Difference \(CfD\) | National Energy System Operator](#) and here: [CfD Resource Portal](#).

- 1) *Transcripts of all forms of contact (including but not limited to meetings, emails, electronic messages and telephone calls) to and from NESO regarding the award of the contracts under AR6 to Hornsea Project 3.*

We can confirm that we hold recorded information that meets the scope of this question. NESO holds information about Hornsea Project 3 that relates to our responsibilities in the CfD Scheme i.e., assessment of applications, auction and reporting the outcome of AR6. Information is held within the CfD online portal. We also hold email communications between NESO and Ørsted that relate to queries about the application and allocation process delivered by NESO.

Information on successful applicants is publicly available: [Contracts for Difference \(CfD\) Allocation Round 6: results - GOV.UK](#). We consider further information provided within an application, and communications from an applicant relating to that application, to be confidential.

Regulation 12(5)(e) of the EIR states that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

The information provided by a developer to NESO during an Application Round is commercial in nature and if disclosed could be used by other developers. In our opinion, disclosing information held within, or that relates to an applicant's application, would be likely to provide an advantage in the market and auction process and/or lead to collusion. Responses to EIR requests are disclosures of information into the public domain so, whilst we are in no way suggesting that you might use this information in a way that might affect the fairness of future Allocation Rounds, we must consider all possible impacts from the disclosure. A disclosure to the public could also damage a developer's wider commercial interests and opportunities. It is important that companies can share this information with NESO in the confidence that it will not enter the public domain.

Additionally, Regulation 54 of the [Contracts for Difference \(Allocation\) Regulations 2014](#) sets out the information that we must provide to the Department for Energy Security and Net Zero (DESNZ) in respect to a CfD Allocation Round. Further information is not shared, and individual project applications are not discussed with third parties during the running of an Allocation Round.

Further to the above, Regulation 12(5)(d) of the EIR states that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law. Proceedings include situations where an authority is exercising its statutory decision-making powers. This includes where NESO is acting as the delivery body for the CfD Allocation Rounds.

NESO has a public duty to promote competition in the market and must ensure that it is acting independently. As the delivery body for the CfD Allocation Rounds NESO must ensure the integrity and fairness of the application and auction process and maintain the confidentiality of that process.

All exceptions in the EIR are subject to a public interest test. Public authorities may aggregate the public interest arguments when applying more than one exception.

NESO acknowledges that there are a number of public interest arguments in favour of disclosing the requested information. There is a general public interest in renewable energy development, particularly where the construction and development of such projects may have an impact on local areas. NESO is also mindful of the presumption in favour of disclosure that underpins the EIR.

There is a public interest in ensuring no specific developer is materially disadvantaged through disclosing confidential commercial information, which is not released in respect of other applications. This ensures the integrity and fairness of the allocation round process. NESO has a public duty under our licence to facilitate competition within the energy market and there is a recognised public interest in allowing competition in the energy industry.

Such projects are crucial to the Government achieving its net zero and clean energy targets and anything that unjustifiably inhibits the competitive development of related projects runs counter to these goals.

NESO is the designated independent system operator and planner under the Energy Act 2023 and must remain independent, fair, and consumer focused. Disclosure could erode trust within the sector, hampering NESO's role and our ability to drive forward reforms and initiatives that would bring benefits to consumers and to the environment.

Having weighed up these public interest arguments, our opinion is that the balance of the public interest lies in maintaining the exception and withholding the information held.

2) *Copies of all internal working papers regarding the checking, approval and award of the contracts under AR6 to Hornsea Project 3.*

Information not held. NESO does not hold any internal working papers relating to the award of contracts under AR6 to Hornsea Project 3.

This concludes our response to your request.

## **Next steps**

You can ask us to review our response. If you want us to carry out a review, please let us know within 40 working days and quote the reference number at the top of this letter.

If you are still dissatisfied after our internal review, you can complain to the Information Commissioner's Office (ICO). You should make complaints to the ICO within six weeks of receiving the outcome of an internal review. The easiest way to lodge a complaint is through their website:

[www.ico.org.uk/foicomplaints](http://www.ico.org.uk/foicomplaints). Alternatively, they can be contacted at: Wycliffe House, Water Lane, Wilmslow, SK9 5AF.

Thank you for your interest in the work of the National Energy System Operator (NESO).

Regards,

The Information Rights Team

National Energy System Operator (NESO)