

Annex A – FOI17-1850 – Public Interest Test

FOI17-1850:	Please would you be able to provide the forecasted cost breakdown for each area of phase 1 and phase 2 down to the lowest level of granularity that is allowed under the FOI act.	
Date:	26 October 2017	
EIR: regulation 12(5)(e): Commercial confidentiality		
Factors supporting disclosure		Factors supporting non-disclosure
<ul style="list-style-type: none">Compliance with the EIR and public authority obligations to be transparent, to assist information applicants with their requests for information and to release relevant information to the public in a timely manner.There is also public interest in transparency and accountability to ensure that public funds are being used effectively and that the department is getting value for money in the goods and services it purchases and/or the projects it funds.		<ul style="list-style-type: none">Information withheld under this exemption relates to estimated cost data. In this case HS2 Ltd considers that disclosure of the withheld information would cause harm to and impact upon its commercial position and prejudice future procurements. Disclosure of this information would also undermine HS2 Ltd's ability to negotiate future contracts and to get value for money. This would be to the detriment of the project and the public interest in seeing that HS2 is developed with the best advice and services, and at favourable and competitive rates.The procurement process for the construction of HS2 and the delivery of rolling stock is underway. The disclosure of information on forecast costs would undermine HS2 Ltd's ability to negotiate competitive rates because potential suppliers would adjust their bids accordingly. This would undermine the possibility of securing value for money for the taxpayer.The disclosure of information on estimated costs would likely adversely affect incentives on suppliers to release efficiencies and reduce costs.
Conclusion: The information requested relates to the commercial interests of HS2 Ltd therefore the exception at regulation 12(5)(e) can be considered.		

Under ICO guidance we understand that we must consider whether it is reasonable in all circumstances to withhold this information before considering whether there is a public interest in disclosing it. We appreciate there is public interest in the general principles of accountability and transparency. However this needs to be weighed against the public interest in avoiding any unwarranted prejudice to the commercial interests of HS2 Ltd.

On balance we do not find any significant public interest value so as to outweigh the prejudice that would be caused to Hs2 Ltd or potential bidders' commercial interests in a highly competitive infrastructure industry. Disclosure of the withheld information would cause harm to and impact upon HS2 Ltd's commercial position and prejudice future procurements. This would be to the detriment of the project and the public interest in seeing that HS2 is developed with the best advice and services, and at favourable and competitive rates. We therefore consider that the public interest in maintaining the exemption outweighs the public interest in disclosure of the withheld information.