

Cristian Giulietti
request-219208-01225d4d@whatdotheyknow.com

19 August 2014

Dear Mr Giulietti,

FOI14-1100

I am writing regarding your request for information received 7 July 2014. Your request has been considered under the *Environmental Information Regulations (EIR) 2004*.

In your request you have stated:

I am looking for the contract in full between HS2 Ltd and contractor John Bates Services for the model development study.

The contract number is 0075 as stated on the Department of Transport monthly spending files.

Please find the contract attached. This contract is formed of the following documents:

Tender Acceptance letter from HS2 Ltd to John Bates Services (19 May 2011)

John Bates Services Tender (6 May 2011)

HS2 Ltd's Model Development Study (tender specification) (15 April 2011)

HS2 Ltd's invitation to tender (ITT) clarifications as shown in version two of HS2 Ltd's Model Development Study (20 April 2011)

HS2 Ltd's Terms and Conditions

HS2 Ltd's Contract Expense Reimbursement policy

Extension letters (various dates)

Please note, due to a small clerical error, HS2 Ltd's tender specification is dated 14 April 2011 in the acceptance letter. All clarifications disseminated during the tender are included as tracked changes in the HS2 Ltd tender specification dated 20 April 2011.

We have redacted commercial information from John Bates' tender submission under regulation 12(5)(e) relating to the confidentiality of commercial or industrial information. This has been withheld subject to the Public Interest Test attached to this letter.

We have also redacted personal information of HS2 Ltd employees below the level of director. We consider that releasing these names would contravene the first principle of the *Data Protection Act 1999* which states that 'personal data shall be processed fairly and lawfully'. Those individuals have not given their consent to having their names and other personal information released and could

not have anticipated that these would be made public in providing a response to an information request.

If you are unhappy with the way we have handled your request or with the decisions made in relation to your request, you may complain in writing to HS2 Ltd at the above address. Please also see attached details of HS2 Ltd's complaints procedure and your right to complain to the Information Commissioner.

Please remember to quote reference number **FOI14-1100** in any future communication relating to this request.

Kind regards

Karen MacKnight

Public Interest Test

FOI14-1100:	Service rates and insurance information provided in John Bates Services' tender submission.	
Date:	18 August 2014	
EIR Exceptions: 12(5)(e) Confidentiality of commercial or industrial information		
Factors supporting disclosure		Factors supporting non-disclosure
<div>1) Statutory responsibility to release information to the public in a timely manner as outlined in HS2 Ltd's publication scheme;</div> <div>2) General public interest in the disclosure of information to ensure transparency and visibility of public bodies being held to account regarding decisions made;</div> <div>3) 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.</div>		<div>1) Releasing this information would be likely to harm the legitimate economic interests of John Bates Services as, if made public, it would be available to competitors who could adapt their own tender submissions to the disadvantage of John Bates Services. It would also be available to potential clients and thus is likely to disadvantage him in negotiations for other tender contracts. We are releasing the total amount charged within the tender document which provides details of the overall cost to the taxpayer.</div> <div>2) There is a public interest in maintaining commercial confidentiality relating to</div>

	<p>the tender and procurement process. It is an important principle that organisations submitting bids to HS2 in the future can be assured that commercial confidence will be maintained where this is necessary to protect a legitimate economic interest. Disclosing information which could significantly harm John Bates Services' economic interests could also harm the ability of HS2 Ltd to reassure organisations in the future that it would protect commercially confidential information.</p> <p>3) Losing the trust of contractors could damage HS2 Ltd's reputation with suppliers in this limited field and could therefore undermine HS2 Ltd's ability to procure specific expert advice. 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.</p> <p>4) Releasing the information may breach regulation⁴³ of the Public Contract Regulations 2006.</p>
<p>Conclusion: The decision to withhold the information is upheld in light of the arguments against disclosure. The information is commercial in nature and was provided as part of a confidential tender process which is potentially subject to reg.43 of the Public Contract Regulations 2006. Disclosure of this information is likely to cause harm to John Bates Services' legitimate economic interests in tendering for other contracts and would adversely affect the confidentiality mentioned above. There is a public interest in disclosing procurement information, including the price and company details of contractors, however there is also a public interest in HS2 Ltd being able to procure the best advice and services in order to deliver a high-quality and cost-effective project. Disclosing sensitive commercial information, provided with a reasonable expectation of confidentiality, would damage the relationship between HS2 and its contractors and would undermine its ability to procure the best services within this field. The arguments against disclosure therefore outweigh the general public interest in releasing such information. The total price charged for the contract is being released in the interests of transparency and general disclosure.</p>	

Your right to complain to HS2 Ltd and the Information Commissioner

You have the right to complain to HS2 Ltd within two calendar months of the date of this letter about the way in which your request for information was handled and/or about the decision not to disclose all or part of the information requested.

Your complaint will be acknowledged and you will be advised of a target date by which to expect a response. Initially your complaint will be re-considered by the official who dealt with your request for information. If, after careful consideration, that official decides that his/her decision was correct, your complaint will automatically be referred to a senior independent official who will conduct a further review. You will be advised of the outcome of your complaint and if a decision is taken to disclose information originally withheld this will be done as soon as possible.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

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