

## Annex D – FOI17-1870 – Public Interest Test

<b>FOI17- 1807:</b>	<b>“Please provide an unredacted copy of the service agreement between High Speed Two (HS2) Ltd and Smith Lambert Hampton Ltd Property Management and Estate Services”</b>
<b>Date:</b>	<b>14 November 2017</b>
<b>FOI Act 2000 – Section 43 (1) and (2): Commercial information</b>	
<b>Factors supporting disclosure</b>	<b>Factors supporting non-disclosure</b>
<ol style="list-style-type: none"> <li>1) General public interest in the disclosure of information to ensure transparency and visibility of public bodies being held to account regarding decisions made and use of funds.</li> <li>2) HS2 Ltd is using public money effectively, and that HS2 Ltd is getting value for money when purchasing goods and services.</li> </ol>	<ol style="list-style-type: none"> <li>1) The disclosure of certain information, especially to a competitor, could materially harm the commercial interests of the supplier.</li> <li>2) Disclosure of commercial information particularly to a competitor would enable them to understand the approach taken by the supplier in other competitive bids especially in terms of price and strategy.</li> <li>3) Certain documents contain information about the business practice which gives the information owner a competitive edge.</li> <li>4) Disclosure of such information undermines the concept of free and open tendering processes which encourage the provision of best value for money. This could also discourage suppliers from competing in further public sector tendering.</li> <li>5) In addition, some of the withheld information has been provided to HS2 Ltd on a commercially confidential basis. Disclosure of the information would be likely to cause actual prejudice to the commercial interests of suppliers. Losing the trust of potential suppliers could damage HS2 Ltd's reputation with suppliers within the infrastructure industry and therefore undermine HS2 Ltd's ability to procure specialised services. This would be to the detriment of the project and public interest in</li> </ol>

	<p>seeing that HS2 is developed with the best advice and services, and at favourable rates.</p> <p>6) Companies or individuals provide HS2 Ltd with commercially sensitive information so that HS2 Ltd is able to make robust decisions regarding its suppliers of goods and services, including ensuring that HS2 Ltd obtains the best value for money from each transaction.</p> <p>7) Ensuring that the competitive position of companies in their particular market is not disadvantaged by doing business with HS2 Ltd. It would not be in the public interest to disclose sensitive information about a particular company if that information would be likely to be used by competitors to gain a competitive advantage.</p>
<p><b>Conclusion:</b> The information requested relates to commercial information, therefore, section 43 of the Act is engaged.</p> <p>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. The information relates to legitimate economic interests. The document which has not been released contains pricing, rates and other sensitive commercial information which if released to a competitor would be liable to cause significant harm to the owner of the information. Furthermore, HS2 Ltd's commercial bargaining position in future negotiations are liable to be adversely affected. This would subsequently affect the finances for the HS2 project and thus the public purse.</p> <p>For these reasons we believe section 43 applies and the reasons against disclosure outweigh the public interest in releasing this information.</p>	