Regulation 12(5)(a): International relations, defence, national security or public safety

Regulation 12(5)(a) provides an exception from the duty to disclose information if the disclosure would adversely affect international relations, defence, national security or public safety. In this case the exception is engaged because releasing the information would compromise the security and safety of companies involved.

Harm

To engage regulation 12(5)(a), disclosing the requested information must have an adverse effect on at least one of the following interests that include: international relations, defence, national security or public safety.

The release of material under EIR has to be considered as release to the world at large - rather than to the individual applicant - and therefore freely available to the general public.

In this case we have identified that there would be an adverse effect on public safety by releasing the names of the companies contracted to do this work.

The publication of company names could be misused by individuals, and both staff and assets could be subject to vandalism or other forms of attack by protestors. Therefore, providing the names of those companies carries a real and significant risk of misuse were they to be released into the public domain, with the potential to endanger the staff, equipment and property of those companies.

Factors supporting disclosure

- Transparency in general may lead to increased trust and engagement between citizens and government

Factors supporting non-disclosure

- The release of the names of those companies engaged to carry out work in this area is highly likely to endanger the staff, equipment and properties of those companies, through vandalism, attacks by criminals and other unwarranted interference by those opposed to the railway

Conclusion

The issue of transparency is noted. However, on balance it is considered that the public interest in providing the information is outweighed by the factors supporting withholding the information. Having considered the arguments for and against, the public interest test favours maintaining the exception. HS2 Ltd will not disclose information that would endanger the safety of its staff or contractors.

Regulation 12(5)(b): the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature

Regulation 12(5)(b) provides an exception from the duty to disclosure information if the disclosure into the public domain would, or would be likely to, prejudice the course of justice. In this case the exemption is engaged because releasing the names of these companies would prejudice the prevention of crime by facilitating the possibility of a criminal offence being carried out.

Harm

Companies associated with, or undertaking work on, HS2 have been the targets of protestor behaviour. Some of this behaviour has been criminal in nature. Therefore, it is likely that disclosure of this information would have a negative impact on the prevention of crime.

Factors for disclosure

- Release of this information would help to promote transparency and accountability.

Factors against disclosure

- Releasing the names of the companies involved in work in this area would make them a target of protestor activity which could include intimidation, physical abuse and other illegal disruption of their activities.

Conclusion

It is important to emphasise here, that whilst your motives for requesting this information are not in question; any information released under the Regulations is a disclosure to the world at large and not merely to you as the requester with a specific interest.

The issues of transparency and awareness are noted. However, on balance it is considered that the public interest in providing the information is outweighed by the potential impact release of this information into the public domain would have on law enforcement by increasing the likelihood of criminal activities.

Having considered the arguments for and against, the public interest test favours maintaining the exception. HS2 Ltd will not disclose information that facilitates crime or compromises law enforcement.