

Our ref: 202400442664
19 December 2024

Annex

An exception under regulation 10(5)(e) of the EIRs applies to some of the information you have requested. Regulation 10(5)(e) allows authorities to withhold information where disclosure would, or would be likely to, prejudice substantially the confidentiality of commercial or industrial information where such confidentiality is provided for by law to protect a legitimate economic interest.

The exemption applies to your question regarding the amount spent to run HES and EST in Scotland. EST were awarded a new contract as part of a competitive tender exercise to administer and manage Scottish Government Heat and Energy Efficiency live and closed grant and loan schemes from 1 December 2023. The initial term of the contract runs until November 2026 and we are unable to provide you the amount paid to EST in relation to this contract.

The exemption under Regulation 10(5)(e) has been considered because the terms of the contract related to pricing are not publicly available. This information is commercial in nature and a duty of confidence exists between the Scottish Government and EST through the contract. Moreover, disclosure is likely to harm the legitimate economic interest.

This exception is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception.

We recognise that there is some public interest in release of the information requested because the amount paid to EST to administer Heat and Energy Efficiency Grant and Loan

Schemes is funded through the Scottish Government's budget and there will be an interest in whether this represents value for money.

However, this is outweighed by the public interest in withholding this information as the release of payment data relating to the current contract involves commercially sensitive information related to contract pricing. Disclosure of the information requested in respect of the current contract is of a commercial nature and would disadvantage both EST and Scottish Ministers in the event the contract is retendered, causing a substantial harm to the legitimate economic interest. EST would experience harm to their economic interests in that competitors would gain access to commercial valuable information. The Scottish Government would experience harm to their economic interests in losing protection of a commercial bargaining position in the context of future negotiations.