



Australian Government
Australian Customs and
Border Protection Service

Customs House
5 Constitution Avenue
Canberra ACT 2601

File No: 2015/009644

31 March 2015

CD

BY EMAIL: foi+request-1010-a04c4e43@righttoknow.org.au

Dear CD

Request for access to documents – Freedom of Information Act 1982 (FOI Act)

I refer to your request dated 10 March 2015 in which you have sought access to documents held by the Australian Customs and Border Protection Service (ACBPS) under the *Freedom of Information Act 1982* (the FOI Act).

You have requested access to:

'a copy of the Contract between ACBPS and "RELEGEN" with the ID "CN2098791" and description "CMO039650 - Software Supp & Main" as listed on AusTender.'

This letter is to notify you of the processing charges associated with your request.

Preliminary Assessment of Charges

ACBPS has located 1 document consisting of 156 folios on 1 file which fall within the terms of your request.

In accordance with section 29 of the FOI Act, I have decided that you are liable to pay a charge in respect of the processing of this request under the FOI Act.

The preliminary assessment of the charge payable is as follows:

Search and Retrieval Time x 1 hour @ \$15 per hour	\$ 15.00
Decision Making Time – Total 10.5 hours - 5 hours free of charge	
Subsequent 5.5 hours at \$20per hour	\$ 110.00
Total	\$ 125.00

Details of the Charge

It has taken 1 hour to search the file that ACBPS has located to retrieve the document which falls within the terms of your request. It is estimated that 156 folios will require a decision to be made on access and that this will take 10.5 hours (noting that the first 5 hours are free of charge).

As the charge exceeds \$25.00, a deposit of \$31.25 will be sought if the charge is imposed. Please note that by paying the deposit you are deemed to have accepted the charge and will be liable for the full amount once a decision has been made on the documents.

You may contend that the charge has been wrongly assessed or should be reduced or not imposed. In deciding whether to reduce or not impose a charge, the Decision Maker must consider any relevant reasons, including either of the following reasons:

- whether payment of the charge, or part of the charge, would cause you financial hardship; and
- whether the giving of access to the documents is in the general public interest.

If you are contending that the charge has been wrongly assessed, should be reduced, or should not be imposed, you will need to provide full reasons for this contention.

Further information regarding FOI charges is available in the OAIC Fact Sheet 7 at **Attachment A** for your reference.

Next steps

Under section 29 of the FOI Act, you have 30 days from the date of this letter to either:

- pay the \$31.25 deposit or the full amount requested; or
- write to ACBPS seeking the charges to be reduced or not applied, stating your reasons.

Payment of the charges should be made payable to "Australian Customs and Border Protection Service". If you wish to pay the charges electronically, please let us know and we will arrange for an invoice to be raised providing you with the necessary details.

You can contact us in the following ways:

By post: FOI Coordinator Australian Customs and Border Protection Service Customs House 5 Constitution Avenue Canberra ACT 2601	By email: foi@customs.gov.au
	By phone: 02 6275 5621

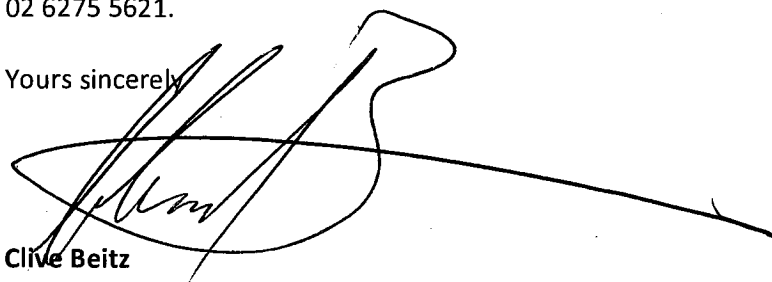
If we have not heard from you at the end of 30 days, we will assume you have withdrawn this request.

Please note that the period of time between the date of this notification of charges and your response is not counted for the purposes of the 30 day statutory time limit. That is to say, the "clock stops" from the date of this letter until we receive your response.

ACBPS will notify you of any additional charges in relation to your request or of a decision as soon as is practicable.

If you have any enquiries concerning this matter, please do not hesitate to contact me on 02 6275 5621.

Yours sincerely



Clive Beitz
Director, Integration Taskforce
Australian Customs and Border Protection Service



Freedom of information – Charges

October 2010

Australian Government agencies and ministers may impose a charge for the work involved in providing access to documents you request under the *Freedom of Information Act 1982* (the FOI Act). These charges are imposed in accordance with the FOI Act and the *Freedom of Information (Charges) Regulations* (the Charges Regulations). There is no charge if you request access to your personal information. How the charge is calculated should be clearly explained to you. You can ask for the charge to be reduced or for the documents to be provided for free. The estimate can be re-calculated if you change the scope of your request for access. You can ask the agency or minister to review their decision on charges, and you can also ask the Information Commissioner to review the decision.

Charges

An agency or minister may impose a charge on an FOI applicant in accordance with the FOI Act and Charges Regulations. The charge should fairly reflect the work involved in providing access to documents on request. A charge cannot be used to discourage someone from exercising their right of access under the FOI Act.

It's my personal information – is there a charge?

There is no charge for documents that contain your personal information. You may be asked to identify yourself so the agency can ensure the documents relate to you.

In many cases a person can access their own personal information without needing to make an FOI application. You should talk to the agency about this before you make an FOI application.

How is the charge calculated?

The Charges Regulations specify different rates for the various activities involved in processing a request. The main charges are:

- Search and retrieval - \$15 per hour
- Decision making - \$20 per hour

- Photocopy – 10c per page
- Transcript - \$4.40 per page
- Supervised inspection - \$6.25 per half hour
- Delivery - cost of postage or delivery.

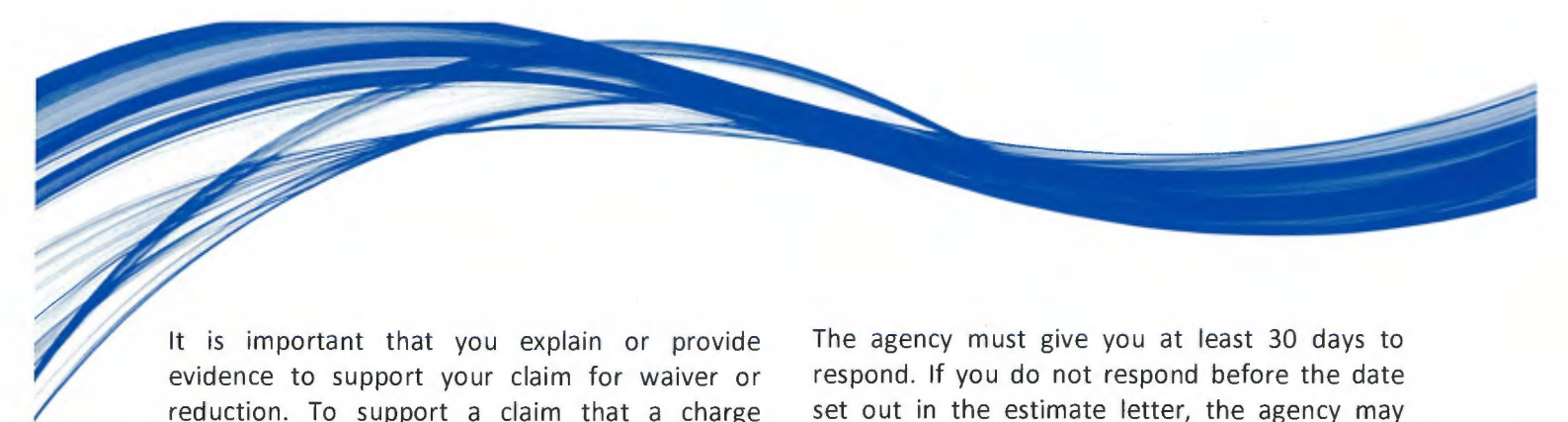
There is no charge for making an FOI request to an agency or minister for access to a document, or for amendment or annotation of a personal record.

The first five hours of decision making time is free for all applicants.

Can I ask for the charge to be reduced?

An agency can reduce or waive (that is, decide not to impose) a charge. You can ask for charges to be reduced or waived when you make your FOI access request, or at any later time.

The agency will consider any reason you give for seeking a reduction or waiver. The two most common reasons for doing so are that payment of a charge would cause financial hardship, or disclosing the documents would be in the public interest.



It is important that you explain or provide evidence to support your claim for waiver or reduction. To support a claim that a charge will cause you financial hardship you might, for example, provide a copy of a pension or welfare card. If you claim that disclosure would be in the public interest, you might explain how the documents will be used in public research, in preparing a submission to a parliamentary inquiry, or in advancing public debate on a topic of current importance.

An agency is not obliged to waive or reduce a charge, even if it accepts your reason for requesting it. In particular, an agency can decide to impose a charge even though it would cause you financial hardship or disclosure would be in the public interest.

Payment

When will I be notified of a charge?

Before requiring you to pay a charge the agency must send you a notice setting out an estimate and the basis for the calculation. The agency can require you to pay a deposit of 25% of the total estimate, or \$20 if the estimate is less than \$100.

You will be given the opportunity to respond before a charge is imposed or a deposit is paid. You can respond by –

- agreeing with the estimate and paying a deposit as required by the agency
- disputing the amount of the estimated charge
 - or the way it was calculated
- requesting the agency to reduce or waive the charge
- changing the terms of your FOI request to reduce the work required to process it, or
- withdrawing your FOI request.

The agency must give you at least 30 days to respond. If you do not respond before the date set out in the estimate letter, the agency may conclude you do not wish to continue with the FOI access request and consider it withdrawn. This means your access request will not be processed.


If you dispute the estimated charge or ask for it to be waived or reduced, the agency must notify you of its decision within 30 days. Similarly, if you change the terms of your FOI request the agency will re-calculate the estimate of charges and give you a new estimate for your comment.

When should I pay?

If an agency requires a deposit from you, you must pay it within 30 days or a further period allowed by the agency. The agency can defer work on your FOI request until the deposit is paid or the agency decides to waive the charge following a request from you.

You can pay the full amount of the estimated charge either at that stage, or later when the agency makes its decision on your access request. In deciding to grant access, an agency can require you to pay a higher charge if more work was involved than the agency had anticipated, except where the agency does not give you full access to all the documents you sought. The FOI Act requires you to pay any charge in full before you can have access to any documents, except where a charge relates to supervising your inspection of documents.

Any deposit you have paid is not refundable, except in three circumstances: if the agency decides to reduce or waive a charge following a request from you; if the agency, after processing your FOI request, decides that the charge payable is less than the deposit you have paid (in which case you will receive a partial refund); or if the agency fails to make a decision on your



request within the statutory time limit, including any extension granted by the Information Commissioner. If you paid a deposit and the agency decides not to grant you access to any document, you are not entitled to a refund of the deposit.

Can I get an invoice for the charge?

Yes. You can ask the agency to issue an invoice for a charge it has imposed.

Disputing a charge

When an agency notifies you of an estimated charge, you can ask the agency to review the decision to impose the charge, or to reduce or waive the charge. Two common grounds for doing so are that paying the charge would cause you financial hardship, or you believe that disclosure of the documents would be in the public interest.

You can also seek review of an agency decision to impose a charge, either by the agency (internal review) or by the Information Commissioner. There is no application fee for internal review or Information Commissioner review. For more information on the review process, see **FOI Fact Sheet 12 Freedom of information – Your review rights**.

Getting the documents

I have the agency's decision – when do I get the documents?

You will be given access to the documents when:

- you have paid the charges (including any outstanding balance) and
- any rights a third party has to seek a review of the decision have run out.

See **FOI Fact sheet 11 Freedom of information – Your rights if information about you or your business is requested** for more information about when a third party can seek review.

The information provided in this fact sheet is of a general nature. It is not a substitute for legal advice.

For further information

telephone: 1300 363 992

email: enquiries@oaic.gov.au

write: GPO Box 2999, Canberra ACT 2601

or visit our website at

www.oaic.gov.au