



Australian
National
University

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23 October 2023

Robert

Via Email: foi+request-10632-c6a128cb@righttoknow.org.au

Freedom of Information Request-202300091

Dear Robert,

On 29 August 2023, the Australian National University received your request seeking access to documents under the *Freedom of Information Act 1982* (the Act).

On 27 September 2023, the University wrote to you and advised that due to the content of the documentation obtained through the search and retrieval process, third party consultation was required. You were informed of the consultation delay of a period of 30 days in that email, with the revised decision date being 30 October 2023.

1. Scope of Request

I have taken the scope of your request to be as follows:

'Under the FOI Act 1982 (Cth), I request access to any and all documents pertaining to the engagement of services from:

- a) PricewaterhouseCoopers,*
- b) Ernst & Young,*
- c) KPMG, and*
- d) Deloitte,*

in relation to public interest disclosures made to relevant officials in the ANU since 1 January 2014.

Date Range: 1 January 2014-29 August 2023.'

The Australian National University
Canberra 2600, ACT Australia

The purpose of this letter is to provide you with a decision on your request for access under the Act.

2. Authority to Make Decision

I am an officer authorised under section 23 of the Act to make decisions in respect of requests to access documents or to amend or annotate records.

3. Relevant Material

In reaching my decision I referred to the following:

- The terms of your request
- Documents relevant to your request
- Advice from University staff with responsibility for matters relating to the document(s) to which you sought access
- Information received during the consultation process
- The FOI Act
- Guidelines published by the Office of the Australian Information Commissioner (OAIC) under section 93A of the Act (the FOI Guidelines)

4. Decision

I have identified one document deemed to be within the scope of your request. I have decided that that document is partially exempt and will be supplied to you with redactions for the reasons outlined below.

My findings of fact and reasons for deciding that exemptions apply to the document in question are set out below.

4.1 Section 22 of the Act – Irrelevant to request, impractical to provide edited version of document

I have determined that document 1 contains material which is outside the scope of your request, and these parts of the document have been redacted in accordance with section 22 of the Act. No information, which relates to you or your request, was

identified in the redacted parts of the documents. Accordingly, the information was deemed irrelevant and therefore excluded from disclosure.

4.2 Section 47G of the Act – Public Interest Conditional Exemptions - Business

Section 47G(1)(a) of the Act provides that material is exempt if its disclosure under this Act would disclose:

- Information concerning a person in respect of his or her business or professional affairs concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:
 - o Would, or could reasonably be expected to affect that organisation or undertaking in respect of its lawful business, commercial or financial affairs.

The document contains information of fees that are of commercial value to third parties operating in a competitive market. The exempt material is not available from publicly accessible sources. I am satisfied that the disclosure of the redacted information within the documents could reasonably be expected to diminish or destroy its commercial value and would adversely impact the organisation to which it relates in respect of it carrying on its lawful business, commercial or financial affairs.

4.3 Public Interest Test – Section 47G

Section 31B of the Act provides that material is exempt if it is conditionally exempt under Division 3, and access to the material would also, on balance, be contrary to the public interest for the purposes of s.11A(5) of the Act.

In applying this test, I have weighed the factors in favour of disclosure against those against it.

I have identified the following factor favouring disclosure:

- access to the documents would promote the objects of the Act by disclosing some contextual information regarding a decision made by the University.

I have identified the following factors against disclosure of the material I consider to be conditionally exempt under section 47G:

- The disclosure of personal information which is conditionally exempt under section 47G(1)(a) of the FOI Act could reasonably be expected to impact the financial, business or commercial affairs of the entity to which the material relates.
- The information which is conditionally exempt under section 47G(1)(a) is not generally well known to the public.
- The exempted material is not part of a document that is available from publicly accessible sources. Further, the disclosure could reasonably be expected to cause undue adverse impacts on the entity to which it relates.

I have had regard to the fact that disclosure of information under the FOI Act must be considered to be a disclosure to the world at large and not just to you as the applicant when weighing these factors.

I have also had regard to section 11B(4) of the Act which sets out the factors which are irrelevant to my decision, which include:

- Access to the documents could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- Access to the documents could result in any person misinterpreting or misunderstanding the documents;
- The authors of the documents were (or are) of high seniority in the agency to which the request for access to the documents was made;
- Access to the documents could result in confusion or unnecessary debate.

I have not taken into account any of the above factors in this decision. After balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information contained within the documents is not in the public interest and therefore is exempt from disclosure under the Act.

A copy of the document schedule is enclosed with this letter.

Your review rights are outlined on the final page of this letter.

If you have any questions or wish to discuss this decision further, please contact me at foi@anu.edu.au.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Dan', with a stylized flourish at the end.

Kathryn Dan
Associate Director
Records and Archives

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Application for Internal Review of Decision

Section 54A of the Act, gives you the right to apply for an internal review of my decision.

It must be made in writing within 30 days of receipt of this letter, no particular form is required but it is desirable to set out in the application the grounds on which you consider the decision should be reviewed.

The application should be addressed to Freedom of Information at foi@anu.edu.au.

Application for Information Commissioner Review of decision

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

Form: online: https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10 or downloadable at https://www.oaic.gov.au/_data/assets/word_doc/0013/6520/ic-review-form.docx

email: foidr@oaic.gov.au

Post: Director of FOI Dispute Resolution, GPO Box 5288, Sydney NSW 2001

More information is available on the Office of the Australian Information Commissioner website. Go to <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews>