



Australian Government

Attorney-General's Department

FOI17/008

3 February 2017

JPK

By email only: foi+request-2919-7510276c@righttoknow.org.au

Dear JPK,

Freedom of Information request – Outcome of recruitment process 493127/AGD

I refer to your request under the *Freedom of Information Act 1982* (FOI Act) for any document relating to the recruitment process 493127/ AGD – First Assistant Secretary – Senior Executive Service Band 2 (not any personal information of recruitment applicants contained in the documents).

I, Helen Daniels, Assistant Secretary, am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI requests made to the Attorney-General's Department (the department).

I am writing to advise you that I consider the work involved in processing your request in its current form would substantially and unreasonably divert the resources of the department from its other operations due to the broad scope and complexity of your request. This is called a 'practical refusal' reason (section 24AA).

On this basis, I intend to refuse access to the documents you requested. However, before I make a final decision to do this, you have an opportunity to revise your request. This is called a 'request consultation process' as set out in section 24AB of the FOI Act. You have 14 days to respond to this notice in one of the ways described below.

In your email of 17 January 2017, you queried whether the department's email to you earlier that day was intended to be a practical refusal notice under section 24AA of the FOI Act. I confirm that that email was not intended to be a practical refusal notice, but rather a means to informally invite you to consider making your request more specific as a matter of courtesy. The request consultation process begins as of the date of this letter.

Why I intend to refuse your request

I have decided that a practical refusal reason exists because processing this request in its current form would substantially and unreasonably divert the resources of the department from its other operations.

In coming to this decision, I have considered the elements to which I must have regard under subsection 24AA(2) of the FOI Act, including the resources that would be used for:

- identifying, locating or collating the documents within the filing system of the department
- deciding whether to grant, refuse or defer access to a document (including resources that would have to be used for examining the document or consulting with any person or body in relation to the request)
- redacting exempt material from the documents
- making a copy or an edited copy, of the document, and
- notifying any interim or final decision on the request.

A search of the department's electronic document management system returned a large number of documents which are likely to be within the scope of your request as it currently stands.

I estimate that:

- there are at least 130 documents likely contained in the scope of your request
- it could take at least 64 hours to examine the pages for decision making (based on an estimate of up to 5 minutes per page), and
- it could take at least 6 hours to prepare a schedule detailing all relevant documents (based on an average of 30 minutes per 10 documents).

Many of the documents contain information that would likely need to be redacted as being outside the scope of the request. In addition, exemptions of at least the following categories would also need to be considered:

- documents relating to deliberative processes (section 47C)
- documents relating to certain operations of agencies (section 47E), and
- documents relating to personal privacy (section 47F).

I have also considered the following other factors of which I may take account (see the OAIC FOI Guidelines chapter 3, paragraph 3.103 for additional information):

- whether the nature of the work is so specialised that only certain officers can complete it
- the impact that processing a particular FOI request could have on the agency's ability to undertake other work
- whether an applicant has cooperated in framing the request to reduce workload, and
- steps proactively taken by an agency to publish information of the kind requested by an applicant.

As the department foreshadowed in its email to you of 17 January 2017, your present request enlivens a number of these considerations. Given that the selection process to which you have referred was for SES Band 2 officers, it is to be expected that there would be correspondence between the panel (made up of SES Band 3 officers) about the process, in particular, correspondence relating to the consideration of candidates. The documents are sensitive in nature and not appropriate for storage on a shared file. Where the department was required to process your request, the searches may be able to be delegated to a small number of support staff, working to the relevant SES officers. However, the SES officers themselves would, at a minimum, be required to provide direction and search parameters, and review any documents being passed to other staff within the department. This aspect of the task could not be undertaken by anyone else in the department and the SES officers have substantial competing priorities and responsibilities. It follows that this diversion of resources would have a significant impact on the other work in the department.

The email sent to you by the department on 17 January 2017 referred to a number of documents that likely fall within the scope of your request that either are, or were previously, publicly available. These documents include, for example: the job advertisement, the vacancy information kit, and gazette notices. As indicated in our email, the department would be willing to provide you with these documents; if you can indicate which if any would be of interest to you.

Lastly, the scope of the request as it currently stands is not structured in a way that seeks to reduce the department's workload in processing the request. This letter details below several ways in which the request might be revised to alleviate the diversion of resources.

Taking all of these factors into account, I am satisfied processing this request would substantially and unreasonably divert the department's resources from its operations.

Request consultation process

You now have an opportunity to revise your request to enable it to proceed.

Revising your request can mean narrowing the scope of the request to make it more manageable or explaining in more detail the documents you wish to access. For example, by providing more information about exactly what documents you are interested in, we will be able to identify the documents more quickly and avoid using excessive resources to process documents that are not of interest to you.

Some suggestions about how you can narrow the scope of your request further are as follows:

- more specifically identify the particular documents or types of documents you are seeking – for example, only including documents for a particular stage or stages of the recruitment process
- exclude documents for a particular stage or stages of the recruitment process, in particular stages where it is likely that significant exemptions will apply, such as where the merits of applicants are being considered
- documents that go to the assessment of candidates, as these documents would most likely be subject to exemptions
- only include documents within a particular date range
- exclude the publically available documents that the department is willing to provide to you alongside this notice.

I would also like to take the opportunity to clarify the scope of your exclusion of 'personal information', as it is not clear to the department exactly what type of information you intend to exclude. For the purposes of processing your request so far, and in issuing this notice, we have interpreted 'personal information' to only include identifying information such as names, addresses, telephone numbers, and other similar details about a person. This means the scope of the request still covers a broad range of documents. You may consider revising the scope of your request to clarify your exclusion and to specifically note the types of personal information you wish to exclude. Further specificity about your exclusion may reduce the scope of your request.

If you agree to narrow the scope of your request in all or some of the above ways, or another way, I will consider whether the practical refusal reason is removed and whether it would be possible for the department to process your revised request.

Within 14 days of receiving this notice, I ask that you do one of the following, in writing:

- a) withdraw your request
- b) make a revised request, or
- c) advise us that you do not wish to revise your request.

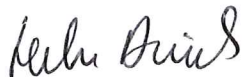
During this period, you are welcome to seek assistance from the contact person I have listed below to revise your request. If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommence processing it. Please note that the time taken to consult you about the scope of your request is not included in the 30 day time limit for processing your request.

If you do not do one of the three things listed above, or you do not consult the contact person within the above-mentioned 14 days, your request will be taken to have been withdrawn.

Contact officer

If you would like to revise your request or have any question, please contact Monique, FOI case manager, by telephone on (02) 6141 6666 or by email foi@ag.gov.au.

Yours sincerely,



Helen Daniels
Assistant Secretary