



Australian Government
Department of Immigration and Citizenship

Our references: FA 13/08/00006; ADF2013/24283

14 August 2013

Julia Dehm

Copy sent by email to:

foi+request-325-23c997d9@righttoknow.org.au

Dear Ms Dehm

Notice under s.24AB of the FOI Act

I refer to your FOI request of on 30 July 2013 in which you sought the following documents.

“(1) contracts between the Department and Toll Holdings for logical supports for the management of asylum seekers, related but not limited to, transport of people, transport of equipment and communications.”

I have recently been appointed as the authorised decision-maker on your FOI request, and I have assessed the scope of your request.

The purpose of this notice is to advise you (as required under s.24AB of the FOI Act) that I consider a 'practical refusal reason' exists under s. 24AA of the FOI Act and I am considering refusing access to the documents in the form requested (s.24(1)(a) of the Act). My reasons are set out in this notice.

Advice regarding practical refusal reasons

The Act contains two *practical refusal reasons*. The first is that processing the request *would substantially and unreasonably divert the resources of the agency from its other operation* (s.24AA(1)(a)).

An agency may also refuse an FOI request if the agency is satisfied that the request does not *provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency to identify the document in question* (s.24AA(1)(b)).

It is the department's view that requests under the FOI Act for access to documents should take no more than 40 hours to complete. Our position is that requests requiring more than 40 hours to complete are an unreasonable and substantial diversion of the department's resources. This balances the right of applicants to seek information under the FOI Act with the department's need to appropriately allocate resources to its functions.

There will be instances where, due to the nature of the request, it may be appropriate to allocate more resources to an FOI request. I am, however, satisfied that in this case such circumstances do not exist.

people our business

FOI resources in agencies are finite, as most staff in agencies are not trained to make decisions under the FOI Act. The other staff of the department are employed to undertake specific functions other than to make FOI decisions. It is not feasible to remove untrained staff from their other duties to meet voluminous FOI requests. Even if it were feasible, diverting those staff from their normal duties would have a detrimental impact on the other services normally delivered by those staff. Unless there were compelling public interest factors in the release, this would be a substantial and unreasonable diversion of the department's resources.

As a result, I am satisfied that your request as it currently stands *would substantially and unreasonably divert the resources of the department from its other operations*. I am therefore unable to progress your request until I have consulted with you on its scope.

Application of s.24AA of the FOI Act to your request

When determining whether a request is a substantial and unreasonable diversion of an agency's resources, the agency may, amongst other things, have regard to the resources that would be used to:

- Identify the documents
- Locate the documents
- Collate the documents
- Decide whether to grant, refuse or defer access to a document
- Decide whether to grant access to an edited copy of a document
- Consult with any relevant third parties in relation to release of the document
- Make an edited copy of the document
- Draft and finalise the decision

I note that your request is comprised of:

- *contracts between the Department and Toll Holdings for logical supports for the management of asylum seekers, related but not limited to, transport of people, transport of equipment and communications.*

Following consultation with the relevant business area and a search on Austender, there are a total of 70 contracts. The business area have advised that there are many contracts and it would assist if you could identify the specific contracts you are seeking by searching Austender.

Austender is the central online tendering system (<https://www.tenders.gov.au>) for Australian Government Agencies. A search on Austender for contracts between the Department of Immigration and Citizenship and Toll Holdings will retrieve certain information on the contracts, for example, the contract period and/or the contract value. It will assist us to progress the case in a timely manner if you could provide further information from Austender.

An estimate of the number of documents requested is as follows:

- Number of documents: 70 (estimated at 10 folios per contract)
- Number of parties to consult: 1 consultation
- Total hours to process this request: 69.53

Using the standard FOI charges calculator, I estimate that at a bare minimum, it would take approximately 69.53 hours to process this request as it currently stands. As a result, I am satisfied that your request *would substantially and unreasonably divert the resources of DIAC from its other operations*. Therefore, I am unable to progress your request until I have consulted with you on its scope.

Consultation over scope

You may consult with me on the scope during the **consultation period** which is from the date on this notice until close of business 5:00 pm Australian Eastern Daylight Saving Time **Wednesday 28 August 2013**.

You may request that I extend the consultation period if you wish, by writing to me before the end of the consultation period at foi@immi.gov.au.

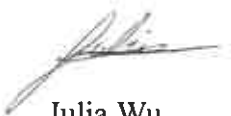
Please note that s.24AB(8) of the FOI Act requires you to contact me before the end of the consultation period to either:

- revise the request or
- withdraw the request or
- advise me that you do not intend to revise the request.

If you do not contact me in writing before the end of the consultation period (to either withdraw your request, revise or affirm the scope of your request, or ask for an extension of time to respond to the s.24AB notice) your request will be 'taken to have been withdrawn' in accordance with s.24AB(7) of the FOI Act.

I look forward to hearing from you shortly.

Yours sincerely



Julia Wu
FOI and Privacy Officer
FOI and Privacy Section
Department of Immigration and Citizenship