



**Australian Government**  
**Department of Industry,  
Innovation and Science**

Our ref: 60963

Mr Jerry Smith  
Right to Know

By email: [foi+request-4503-02da6b8d@righttoknow.org.au](mailto:foi+request-4503-02da6b8d@righttoknow.org.au)

Dear Mr Smith

**Freedom of Information Act 1982 – Notice of Decision**

I refer to your request received by the Department of Industry, Innovation and Science (the department) on 15 April 2018, for access under the *Freedom of Information Act 1982* (FOI Act) to the following:

*“...the internal documents currently used to train staff assessing and auditing Ausindustry Applications for the R&D Tax Incentive. This includes training presentations/manuals and reference documents”.*

On 2 May 2018, you were provided with a notice of the department’s intention to refuse your request on practical refusal grounds. The practical refusal grounds being that processing your request would unreasonably and substantially divert the resources of the department from its other operations. In this notice you were informed that a conservative estimate indicated it would take the department at least 241 hours to process the request, and you were invited to revise the scope of your request.

On 16 May 2018, you revised the scope of your request to the following:

*“...My request is centred on the core reference material used by staff to assess the eligibility of applications for the R&D Tax Incentive. Please consider this a revision of my request.*

**Decision**

I am an authorised decision maker under section 23 of the FOI Act.

I have decided to refuse your request under section 24(1) of the FOI Act on practical refusal grounds. The practical refusal ground being that processing your request would unreasonably and substantially divert the resources of the department from its other operations.

The reasons for my decision are set out below as required by section 26 of the FOI Act.

**Reasons for Decision**

Under subsection 24(1) of the FOI Act, if an agency is satisfied that a practical refusal reason exists in relation to a request, the agency must undertake a request consultation process in accordance with section 24AB of the FOI Act. However, if after the request consultation process the agency is satisfied that the practical refusal reason still exists, the agency may refuse the request.

I am satisfied that a request consultation process has been undertaken by the department in accordance with section 24AB of the FOI Act. On 2 May 2018 you were issued a practical refusal notice informing you

of the voluminous scope of your request and that it would require over 241 hours of processing and decision making time to process your request. Accordingly, the processing of your request as originally framed would be unreasonable and substantially divert the resources of the department from its other operations.

I am satisfied that the department also took reasonable steps to assist you to revise the scope of your request so that a practical refusal reason would no longer exist. The department provided you with a reasonable opportunity to consult with the department and you were provided with information to assist you to narrow the scope of your request. I am therefore satisfied that the department has taken reasonable steps to assist you to revise the scope of your request.

I am also satisfied that a practical refusal reason exists in relation to your revised request of 16 May 2018, after a request consultation process had been undertaken. While you did revise the scope this would still require personnel to go through approximately 1250 pages to identify such documents taking approximately 200 hours and does not include the time required for document examination, preparing schedule of documents and decision making time, this would still be a substantial and unreasonable diversion of resources.

Accordingly, I am satisfied that a practical refusal reason remains in relation to your request and I have decided to refuse your request under section 24(1) of the FOI Act.

#### **Review rights**

If you are dissatisfied with any part of my decision, your review rights are set out in **Attachment A**.

Please do not hesitate to contact the FOI team by e-mail at [FOI@industry.gov.au](mailto:FOI@industry.gov.au), if you require any further clarification.

Yours sincerely



Joanne Mulder  
General Manager  
Business Equity and Incentives

6 June 2018

**REVIEW RIGHTS**

**Application for Internal Review**

Section 54 of the FOI Act gives you the option to apply for a departmental internal review of my decision. If you make an application for internal review it will be conducted by an officer of the department (other than me) appointed by the Secretary of the department to conduct a review and make a completely fresh decision on the merits of the case.

Application for a review of the decision must be made within 30 days after the day of receipt of this letter, or within 15 days of receipt of the documents to which this decision relates (whichever is the longer period). You do not have to pay any fees or processing charges for an internal review, except for charges relating to the provision of any additional relevant material located as a result of the review (for example photocopying). While a specific form is not required, it would assist the decision maker if your application specifies the grounds on which you consider the decision should be reviewed.

Application for a review of a decision should be addressed to:

FOI Coordinator  
Department of Industry, Innovation and Science  
GPO Box 2013  
CANBERRA ACT 2601

or by e-mail to: [FOI@industry.gov.au](mailto:FOI@industry.gov.au).

**Review by the Australian Information Commissioner**

If any decision on internal review were not satisfactory to you, section 54L of the FOI Act gives you the right to apply for review of my decision by the Information Commissioner.

An application for review by the Information Commissioner may be made regardless of whether the decision was the subject of a departmental internal review. An application for review by the Information Commissioner must be made within 60 days of receipt of this notice. There is no fee for review by the Information Commissioner.

You must apply in writing and you can lodge your application in one of the following ways:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)  
Post: GPO Box 5218, Sydney NSW 2001  
Fax: +61 2 9284 9666  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

An application form is available on the website at [www.oaic.gov.au](http://www.oaic.gov.au). Your application should include a copy of this notice and your contact details. You should also set out why you are objecting to the decision.

**Complaints to the Australian Information Commissioner**

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. The Australian Information Commissioner will make a completely independent investigation of your complaint. A complaint to the Australian Information Commissioner must be made in writing and can be lodged online using the Information Commissioner Complaint Application form on the Australian Information Commissioner's website at [www.oaic.gov.au](http://www.oaic.gov.au)

