



Our ref: IEF18/1451

Ms Audrey Broinowski
Right to Know

By email: foi+request-4505-90b418ed@righttoknow.org.au

Dear Ms Broinowski

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:

“...all internal policy and internal working group papers relating to the departments interpretation and administration of the R&D Tax Incentive as it relates to the ICT Industry from 01 January - 01 May 2018”.

In correspondence dated 2 May 2018, you were provided with a notice of 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 over 55 hours to process the request, and you were invited to revise the scope of your request so the practical refuse grounds no longer exists.

In correspondence dated 16 May 2018, you requested the department to conduct an internal review on the department’s handling of your FOI request.

In the same correspondence, you have also revised your request to:

“...’internal policy and internal working group papers relating to the departments interpretation and administration of the R&D Tax Incentive as it relates to the ICT Industry from 01 March - 07 May 2018”.

In correspondence dated 17 May 2018, you were acknowledged receipt of your revised request and the department would consider it.

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 on the next page 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 that it would require over 55 hours of processing and decision making time to process your request. Accordingly, the processing of your request as originally framed would substantially and unreasonably divert the resources of the department from its other operations.

In the same notice, the department suggested ways for you to consider to revise the scope of your request and invited you to contact the department for assistance in relation to revise your request so the practical refusal reason no longer exists.

I am satisfied that the department provided you with opportunity to consult with the department. However, the department has not received any correspondence from you in relation to assistance to revise your request.

In your revised request of 16 May 2018, you have reduced the timeframe from 1 January to 1 March 2017. While you reduced the timeframe, the work involved in processing the revised request remains unreasonably and substantially divert the resources of the department from its other operations. This would still require personnel to go through approximately 420 pages to identify such documents. 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, 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.

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
Post: GPO Box 5218, Sydney NSW 2001
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au

An application form is available on the website at 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

