



Australian Government
Department of Social Services

By email: foi+request-4671-4145bf80@righttoknow.org.au

Dear Clear Pseudonym

Freedom of Information (FOI) Request No. 17/18-131

1. I refer to your correspondence received by the Department of Social Services (the Department) on 28 June 2018 in which you requested access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

I am seeking procurement documentation the Department holds about the purchase and the maintenance of laptops issued to staff.

To help limit the scope: I am looking for tender forms or final/signed agreements to third parties about the purchase of the devices issued to the Departmental staff in the last 2-3 years, especially for the move to the new National Office building. This information should contain financial and inventory information.

Note that I am not seeking information relating to Desktop computers or "dumb" devices used for purposes such as AV.

In terms of maintenance, I am requesting figures/inventory/statistical data around the hardware failure rate of said laptops. This may come from internal technicians where they have inspected devices and deemed them faulty. If no such data exists, the scope may include metadata/statistical data on Service Requests raised by staff about the inability to use the laptops. However, I do not need the service requests themselves, simply the stats: such as how many requests raised and triaged.

If the scope of the request is too large, please focus on the on the procurement information.

2. On 6 July 2018, I wrote to you to undertake a request consultation process regarding the scope of your request as Item 1 was unclear and Item 2 was likely to attract a practical refusal under section 24 of the FOI Act.
3. In response to the request consultation process, you proposed the following revised scope:

[Item 1] Procurement plans, work orders and inventory documents relating to the purchase of laptops for the department for the 2017-18 financial year.

[Item 2] Signed/Agreed support plans or Service Level Agreements with the vendors relating to Item 1

[Item 3] Options/advice papers provided to senior DSS executive about the purchase

[Item 4] Papers regarding the internal testing of devices before purchase. This may include documents that have shown pros/cons between different vendors/devices

4. On 9 August 2018, I wrote to you to advise that Item 4 was difficult to process and asked you to consider removing that item from the scope of your request.
5. On 9 August 2018, you agreed to my proposal and we agreed to process your request for the following:

[Item 1] Procurement plans, work orders and inventory documents relating to the purchase of laptops for the department for the 2017-18 financial year

[Item 2] Signed/Agreed support plans or Service Level Agreements with the vendors relating to Item 1

[Item 3] Options/advice papers provided to senior DSS executive about the purchase

6. I am authorised to make decisions under subsection 23(1) of the FOI Act. My decision regarding your request and the reasons for my decision are set out below. The Schedule of Documents at **Attachment A** summarises my decision in relation to each document.
7. I have decided that there is no charge for processing your request.

Decision on access

8. The Department has identified ten documents, consisting of 64 pages, that fall within the scope of your request.
9. Having considered these documents, I have decided to:
 - grant access in part to ten documents in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is considered exempt under section 47G [public interest conditional exemptions – business] of the FOI Act; and
 - remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(b)(ii) of the FOI Act.
10. In reaching my decision, I have taken the following material into account:
 - the scope of your request;
 - the content of the documents falling within the scope of your request;
 - the FOI Act;

- consultations with departmental officers about the nature of the documents; and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Reasons for decision

Section 47G of the FOI Act – public interest conditional exemption – business

11. Subsection 47G(1) of the FOI Act provides that:

A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of information:

(a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs...

12. Upon examination of the documents, I identified business information of a third party, specifically unit pricing and staff details.
13. I am satisfied that releasing the identified material could have an adverse effect on the business as disclosure of pricing breakdowns and staff details could diminish the competitive nature of the business and affect the profitability of its business operations.
14. In light of the above, I have decided that the specified material is conditionally exempt in accordance with section 47G of the FOI Act.

The public interest test

15. Section 11A(5) provides that must be given to the material identified as conditionally exempt unless, in the circumstances, it would be, on balance, contrary to the public interest.
16. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, I considered the FOI Guidelines together with a range of factors that favour access to a document set out in section 11B(3) of the FOI Act.
17. I consider that disclosing the conditionally exempt material may promote some of the objects of the FOI Act as information held by the Government is a national resource and disclosure may promote oversight of public expenditure.
18. However, disclosure of the information could reasonably be expected to prejudice the commercial activities of a business.
19. Based on this factor, I have decided that in the circumstances of this particular matter, the public interest in disclosing the information identified above is outweighed by the public interest factors against disclosure.
20. I have not taken into account any of the irrelevant factors set out under subsection 11B(4) of the FOI Act in making this decision.

21. As a result, I find the material exempt under sections 47G of the FOI Act.

Further information

22. The documents located for this request overlap Items 1, 2 and 3. Support plans and service level agreements are outlined in the work orders for each procurement. Further information relating to specific contractual arrangements can be found in the Head Agreement managed by the Digital Transformation Agency. Advice provided to senior DSS executive about the purchase of laptops can be found in the five procurement plans provided.

Release of documents

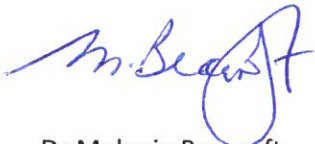
23. Documents for release are enclosed and listed in the schedule of documents at **Attachment A**.

Rights of review

24. I have set out your rights to seek a review of my decision at **Attachment B**.

25. Should you have any enquiries concerning this matter please do not hesitate to contact me via email at foi@dss.gov.au or on 02 6146 0348.

Yours sincerely



Dr Melanie Beacroft
Assistant Director, Freedom of Information
Government and Executive Services Branch
Governance, Legal and Assurance Group

14 September 2018

Schedule of Documents

Document Number	Page Number	Date	Description	Decision
1.	1-3	27 July 2017	Procurement Plan: Procurement of Dell Latitude 7285 mobile device bundles for the new National Office Accommodation	Release in part with deletions made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47G (conditional exemption – business) of the FOI Act
2.	4-15	1 August 2017	Contract Order Form	Release in part with deletions made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47G (conditional exemption – business) of the FOI Act
3.	16-18	31 August 2017	Procurement Plan: Procurement of [redacted] 7285 Mobile Device Bundle and [redacted] for Aviation House	Release in part with deletions made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47G (conditional exemption – business) of the FOI Act
4.	19-25	13 September 2017	Contract Order Form	Release in part with deletions made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47G

				(conditional exemption – business) of the FOI Act
5.	26-28	22 November 2017	Procurement Plan: Procurement of additional Mobile Device Bundles and [redacted] for the National Office and Aviation House	Release in part with deletions made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47G (conditional exemption – business) of the FOI Act
6.	29-45	23 December 2017	Contract Order Form	Release in part with deletions made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47G (conditional exemption – business) of the FOI Act
7.	46-48	20 April 2018	Procurement Plan: Procurement of [redacted] Dell Latitude 7285 2-in-1 Base for the new National Office and Aviation House	Release in part with deletions made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47G (conditional exemption – business) of the FOI Act
8.	49-55	18 May 2018	Contract Order Form	Release in part with deletions made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47G (conditional exemption – business) of the FOI Act

9.	56-58	20 April 2018	Email: FOR APPROVAL: Procurement of [redacted] Surface Pro LTE i5	Release in part with deletions made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47G (conditional exemption – business) of the FOI Act
10.	59-64	15 May 2018	Contract Order Form	Release in part with deletions made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47G (conditional exemption – business) of the FOI Act

Your rights of review

Internal review

Section 54 of the FOI Act gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision you must apply for the review in writing within 30 days of receipt of this letter.

No particular format is required but it will help the new decision-maker if you clearly state why you consider the decision should be reviewed. Please send your application by post or email as follows:

Post: Freedom of Information (FOI) Team
Government and Executive Services Branch
Chief Counsel Group
Department of Social Services
GPO Box 9820
CANBERRA ACT 2601

Email: foi@dss.gov.au

External Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (AIC) to seek a review of this decision.

If you wish to have the decision reviewed by the AIC you must apply for the review in writing or by using the online merits review form available on the AIC's website at www.oaic.gov.au, within 60 days of receipt of this letter. To assist the AIC your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the AIC about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

Applications for review or complaint can be lodged in one of the following ways:

Online: www.oaic.gov.au

Post: GPO Box 5218
SYDNEY NSW 2001

Phone: 1300 262 992 or +61 2 9284 9749 (international)

Email: enquiries@oaic.gov.au

In person: Level 3
175 Pitt Street
SYDNEY NSW 2000