



9 November 2018

Our reference: LEX 40654

Mr Josh Morrison
Right to Know

Only by email: foi+request-4936-0a4fc24@righttoknow.org.au

Dear Mr Morrison

Your Freedom of Information request – Consultation

I refer to your request, dated 5 November 2018 and received by the Department of Human Services (**department**) on the same date, for access under the *Freedom of Information Act 1982 (FOI Act)* in the following terms:

Please take this as my request under the relevant acts for all invoices or transactional data showing the costs of the SMS security (2 Factor Authentication) for the myGov Portal for each month from inception of the tool.

Consultation – your request gives rise to two practical refusal reasons

I am consulting with you because:

- your request does not provide sufficient information as is reasonably necessary to enable the department to identify the documents that you are requesting.
- processing your request, as best the department can understand its terms, is likely to result in a substantial and unreasonable diversion of the resources of the department.

I am asking you to:

- revise your request to give me more specific details about the documents you are requesting; and
- narrow your request so that it is not too large for the department to process.

For a more detailed explanation of what this means see **Attachment A**.

If you do not revise your request in order to resolve the issues raised in this letter, I will have to refuse your request on the basis that one or more practical refusal reasons still exists.

How to send us a 'revised request'

Within the next 14 days (**consultation period**) you must do one of the following, in writing:

- withdraw the request;
- make a revised request; or

- advise that you do not want to revise your request.

Your written response must be received by the department before the consultation period ends.

If no response is received by that date, your request will be taken to have been withdrawn, pursuant to the operation of the FOI Act.

The time taken to consult with you now is not included in the initial 30 day processing period for your request.

Contact officer

I am the contact officer for your request. During the consultation period you are welcome to ask for my help in revising your request. You can contact me:

- in writing to the address at the top of this letter; or
- via email to FOI.LEGAL.TEAM@humanservices.gov.au

Note: When you contact us please quote the reference number **FOI LEX 40654**.

Further assistance

If you have any questions please email FOI.LEGAL.TEAM@humanservices.gov.au.

Yours sincerely

Ellen

Authorised FOI Decision Maker
Freedom of Information Team
Employment Law and Freedom of Information Branch | Legal Services Division
Department of Human Services

What you requested

On 5 November 2018, you made a request under the FOI Act in the following terms:

Please take this as my request under the relevant acts for all invoices or transactional data showing the costs of the SMS security (2 Factor Authentication) for the myGov Portal for each month from inception of the tool.

Interpretation of the scope of your request

Your request does not provide sufficient information to identify the documents you seek

Section 15(2)(b) of the FOI Act requires that an FOI request must provide such information concerning the documents sought as is reasonably necessary to enable a reasonable officer of the department to identify those documents.

Your request does not provide such information as is reasonably necessary to enable the department to identify the documents that you are requesting.

I am not able to reasonably identify what documents you want because it is unclear what you mean by:

- 'the relevant acts';
- 'all invoices or transactional data';
- 'costs'; and
- 'for each month from inception of the tool'

Firstly, the part of your request for 'the relevant acts' is unclear. It is unclear if you had intended 'relevant acts' to be a request made under the FOI Act, if the request is intended to be under some other legislation or if the scope is meant to include legislation.

Secondly, it is unclear whether by 'invoices' if you are requesting invoices from third parties to the department, or invoices issued to the department to third parties.

Thirdly, 'transactional data' does not refer to a document. It is unclear whether 'transactional data' is related to payment transactions between the department and another party (for example, invoices, bills, quotes and evidence of payments) or whether you are referring some other kind of transfer of information (for example, information logging when a message is sent).

Fourthly, the 'costs' requested could refer to the following:

- delivery costs (i.e. individual costs for each text message);
- implementation costs (i.e. the staff or technology costs required to start up the security tool);
- telephony costs for the SMS authentication; or
- operational costs of a particular software required for the authentication process.

Finally, the phrase 'for each month from inception of the tool' does not specify a date range and is unclear. It is unclear whether 'tool' is referring to the SMS Factor Authentication, myGov or something else. Therefore, the use of the term 'inception' could be interpreted to mean the following:

- when myGov was first launched to the public;

- from when the SMS Factor Authentication for myGov was launched to the public; or
- something else.

Also, by the inclusion of 'or' in your request it is unclear which of type of document you are requesting, being 'invoices' or the 'transactional data', both of which are unclear for reasons provided above.

Accordingly, you have not provided sufficient information to enable a department officer to identify the documents you seek.

Processing your request would substantially and unreasonably divert the resources of the department from its other operations

To the extent that some of the documents you are seeking could be identified, processing your request would substantially and unreasonably divert the resources of the department from its other operations.

By way of example, assuming that your request is for all invoices and transactions between the department and all third parties, involving the construction and delivery of myGov security and authentication system, searches would have to be undertaken across several business areas to capture the documents. The department would have to review all of the documents retrieved, consult with the relevant departmental officer, as well as third parties, review the documents and make redactions (if required).

Therefore, a practical refusal reason exists in relation to your request, in that processing your request would substantially and unreasonably divert the resources of the department.

Revising your request

You may wish to revise the scope to address the issues raised above by, for example:

- provide additional information to specify the legislation you are referring to;
- identify whose invoices you are seeking and by whom;
- specify what 'transactional data' is referring to;
- identify what 'costs' you are referring to;
- consider specifying a date range for the request;
- specify what point in time 'inception' is referring to; or
- identify what you are referring to with 'tool'.

Please note that, even if you provide the department with specific information that allows us to identify the documents you are seeking, the request may still give rise to a practical refusal reason if the revised scope remains too broad. You will need to take this into consideration when revising the scope of your request.

The FOI guidelines, as issued by the Australian Information Commissioner under section 93A of the FOI Act, does not allow 'part processing' of an FOI request, meaning that, even if some parts of your request were clear, the department cannot process any aspect of your request if part of it remains unclear.

Relevant sections of the *Freedom of Information Act 1982*

Section 15(2)(b) of the FOI Act provides that a request must provide such information as is reasonably necessary to enable the agency to identify the documents that are being requested.

Section 24AA(1)(a)(i) of the FOI Act provides that a practical refusal reason exists in relation to an FOI request if the work involved in processing the request would substantially and unreasonably divert the resources of the department from its other operations.

Section 24AA(1)(b) of the FOI Act provides that a practical refusal reason exists in relation to a request for a document if the request does not satisfy the requirement in section 15(2)(b) of the FOI Act.

Section 24AA(2) of the FOI Act sets out certain factors which the department must consider when determining whether a partial refusal reason exists. The department must specifically have regard to the resources that would have to be used for:

- identifying, locating or collating the documents within the department's filing system;
- deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for examining the document or consulting in relation to the request;
- making a copy, or an edited copy, of the document;
- notifying any interim or final decision on the request.

Section 24AB(6) of the FOI Act says that the applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:

- withdraw the request;
- make a revised request; or
- indicate that the applicant does not wish to revise the request.

Section 24AB(7) of the FOI Act provides that the request is taken to have been withdrawn at the end of the consultation period if:

- the applicant does not consult the contact person during the consultation period in accordance with the notice, or
- the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.