



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2020/083

Mr John Smith

By Email: foi+request-6287-75d69061@righttoknow.org.au

Dear Mr Smith

I refer to your email of 16 April 2020, in which you made a request to the Department of the Prime Minister and Cabinet (the Department) under the *Freedom of Information Act 1982* (Cth) (the FOI Act) in the following relevant terms:

Please supply a copy of the following documents:

The table of contents pages, of all final reports delivered to DPMC, by McKinsey since 18 September 2013, that are stored in either a PDF or Word document format.

The first/opening slide of all powerpoint presentations delivered to DPMC by McKinsey since 18 September 2013, that are stored in a powerpoint document format.

I agree to limit my request to only include in scope the table of contents pages/title page slides of any documents that are stored as email attachments, within the inboxes of SES-level employees of the department only, and only when sent to that inbox directly from a McKinsey organisational email address.

If a further narrowing of the request is needed I am willing to narrow the request further to minimise any burden upon your department.

The decision maker for your request is Mitchell Johnson, Assistant Secretary, Finance, Property and Security Branch.

Notice and reasons for intention to refuse your request

Section 24(1) of the FOI Act provides that a request to a Minister may be refused if the decision maker is satisfied that a practical refusal reason (as set out in section 24AA of the FOI Act) exists in relation to the request.

I write to advise you that the decision maker considers that the work involved in processing your request, in its current form, would substantially and unreasonably divert the resources of the Department from its other operations. This constitutes a 'practical refusal reason' under section 24AA of the FOI Act. On this basis, the decision maker intends to refuse access to the documents you have requested.

However, before the decision maker makes a final decision to refuse the request for a practical refusal reason, you have an opportunity to revise your request. This is called a 'request consultation process' as set out under section 24AB of the FOI Act. You have 14 days to respond to this notice in one of the ways set out below.

Reasons for intention to refuse your request

In deciding if a practical refusal reason exists, an agency must have regard to the resources required to perform the following activities specified in section 24AA(2) of the FOI Act:¹

- identifying, locating or collating documents within the filing system of the agency;
- examining the documents;
- deciding whether to grant, refuse or defer access;
- consulting with other parties;
- redacting exempt material from the documents;
- making copies of documents;
- notifying an interim or final decision to the applicant.

Other matters may be relevant in deciding if a practical refusal reason exists such as the staffing resources available to an agency for FOI processing, whether the processing can only be undertaken by one or more specialist officers in an agency who have competing responsibilities, the impact that processing may have on other work in an agency including FOI processing, and whether there is a significant public interest in the documents requested.²

We have undertaken preliminary searches for documents potentially relevant to your request. The date range of the searches was 18 September 2013 to 16 April 2020 (the date we received your request). Having regard to where documents meeting the terms of your FOI request would reasonably be expected to be held by the Department, we have undertaken the following searches:

- the Department's email system for emails with an attachment received by @pmc.gov.au accounts from @mckinsey.com accounts;
- the Department's electronic records system.

As a result of the preliminary searches, we have identified at least 935 documents that would need to be reviewed for relevance to your request.

Although you are only seeking the table of contents for final reports and the opening slide for all power point presentations, it would still be necessary to open, review and extract the relevant page/s each of the documents identified to date.

For any documents identified as relevant to the request, there would be further work required to process the request that may include consulting with any parties, deciding whether to grant, refuse or defer access, redacting any exempt material, and preparing and notifying a decision. Adopting a conservative estimate of one page per document, we have estimated that the task would take one officer at least 281 hours.

¹ 'Guidelines issued by the Australian Information Commissioner under s 93A of the *Freedom of Information Act 1982*', Part 3 – Processing and Deciding on Requests for Access (Version 1.6, January 2018), [3.116].

² Ibid, [3.117].

Ordinary hours of work for full-time employees in the Department are 38 hours per week.³ Having regard to the estimate of time to process the request, this means it would take one officer at least 7 weeks to process your request.

The Department acknowledges that the processing of requests for access to documents is a legitimate part of each agency's functions, and that FOI requests may require reallocation of resources within an agency. However, the Department could not reasonably divert resources to assist in processing the request. In reaching this view, the Department has had regard to the public interest in access to information held by the Department but considers the public interest in access is outweighed by the competing public interest in the ability of the Department to undertake its ordinary functions without substantial impairment, including the processing of other FOI requests.

For the reasons given above, the decision maker considers that processing your request in its current form would be a substantial and unreasonable diversion of the Department's resources from its other operations.

Request consultation process

You now have an opportunity to revise your request to enable it to proceed.

Revising your request can mean narrowing the scope of the request to make it more manageable or explaining in more detail the specific documents you wish to access. We will assess whether any revised request has removed the practical refusal reason.

You may wish to consider revising your request in one or more of the following ways:

- narrowing the time frame for your request; and/or
- limiting your request by a particular subject-matter or contract reference. The information published on the AusTender web site (<https://www.tenders.gov.au/>)⁴ regarding contracts that the Department has entered into with McKinsey and Company may be able to assist you to identify a subject-matter of interest to you.

No guarantee of access

Please be aware that even if you revise your FOI request to enable it to be processed, there is still no guarantee that documents will ultimately be released. That is a matter for the decision maker to decide in the usual manner after examining the relevant documents. The issue we are addressing at the moment is whether your FOI request can be processed – not what the eventual outcome may be if it is processed.

Action required

Section 24AB of the FOI Act provides that you must do one of the following, in writing, within the next 14 days:

- revise your FOI request;

³ Department of the Prime Minister and Cabinet, *Enterprise Agreement 2017-2020*, [315].

⁴ The Australian Government's procurement information system, AusTender, publishes all publicly available Government Approaches to Market, Annual Procurement Plans, standing offer arrangements and contracts awarded. The AusTender website has a search facility that enables you to search for contracts awarded by the Australian Government agencies, including the Department of the Prime Minister and Cabinet. The information published on AusTender includes the name of the agency, the category of the contract, the contract period, and the contract value.

- indicate that you do not wish to revise it; or
- withdraw the FOI request.

If you do *not* do one of the above within the next 14 days, your FOI request will be taken to have been withdrawn.

If you were to revise your FOI request in a way that adequately addresses the above concerns and makes it manageable, the Department will recommence processing it.

Calculation of 30 day period

Please note that the time taken to consult with you regarding the scope of your FOI request is not taken into account for the purposes of calculating the 30 day period during which the Department is required to take all reasonable steps to process your FOI request.

Should you wish to discuss your request, please contact the Department's FOI and Privacy Section on (02) 6271 5849, or by email to foi@pmc.gov.au, quoting reference number FOI/2020/083.

Yours sincerely



Senior Adviser
FOI and Privacy Section

7 May 2020