



Australian Government

Department of Immigration and Border Protection

11 June 2014

**In reply please quote:**

FOI Request FA14/05/01346

File Number ADF2014/18218

Deep Thought

Sent to email: [foi+request-632-38b7b2ac@righttoknow.org.au](mailto:foi+request-632-38b7b2ac@righttoknow.org.au)

Dear Deep Thought,

**Freedom of Information request – decision on request**

This letter refers to your request received on 27 May 2014 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

*I write to you under the FOI act to request any and all details of subcontracts between Transfield Services and Wilson Security as per the "Heads of Agreement" for services rendered on the Manus Island Regional Processing Center.*

**Decision**

My decision is to refuse the documents within the scope of your request. Please see the attached Decision Record and Schedule of Documents which will explain why these documents have been refused.

**Review rights**

Internal review

If you disagree with my decision, you have the right to apply for an internal review by the department my decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by an officer other than the original decision-maker and the department must make a review decision within 30 days.

Applications for review should be sent to:

Freedom of Information  
Department of Immigration and Border Protection  
PO Box 25  
BELCONNEN ACT 2617

Or by email to: [foi@immi.gov.au](mailto:foi@immi.gov.au)

**people** our business

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of my decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a review request to the OAIC, please see FOI fact sheet 12 '*Freedom of information – Your review rights*', available online at [www.oaic.gov.au](http://www.oaic.gov.au).

**How to make a complaint about the handling of this FOI request**

You may complain to the Australian Information Commissioner if you have concerns about how the department has handled your request under the FOI Act. Information about how to submit a complaint is also available at [www.oaic.gov.au](http://www.oaic.gov.au).

**Contacting the FOI Section**

If you wish to discuss this matter, I can be contacted using the details provided below.

Yours sincerely



Ashley Smith  
Authorised decision maker  
FOI and Privacy Policy Section  
Ministerial, Executive and External Accountability Branch  
Department of Immigration and Border Protection  
Telephone (02) 6225 8037  
Email [foi@immi.gov.au](mailto:foi@immi.gov.au)

**Attachments**

- Attachment A - Decision Record



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Department of Immigration and Border Protection

Attachment A

DECISION RECORD

**Request Details**

FOI Request FA14/05/01346

File Number ADF2014/18218

**Scope of request**

*I write to you under the FOI act to request any and all details of subcontracts between Transfield Services and Wilson Security as per the "Heads of Agreement" for services rendered on the Manus Island Regional Processing Center.*

**Authority to make decision**

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate departmental records.

**Information considered**

In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The department's FOI handbook

**Reasons for decision**

***24A Requests may be refused if documents cannot be found, do not exist or have not been received***

*Document lost or non-existent*

(1) *An agency or Minister may refuse a request for access to a document if:*

- (a) *all reasonable steps have been taken to find the document; and*
- (b) *the agency or Minister is satisfied that the document:*
  - (i) *is in the agency's or Minister's possession but cannot be found; or*
  - (ii) *does not exist.*

*Document not received as required by contract*

(2) *An agency may refuse a request for access to a document if:*

- (a) *in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and*
- (b) *the agency has not received the document; and*
- (c) *the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.*

In relation to all details of subcontracts between Transfield Services and Wilson Security as per the Heads of Agreement for services on Manus Island I have taken the following actions and received the following responses:

- Identified the appropriate area within this department that are responsible for handling contracts surrounding Transfield Services relating to services on Manus Island
- Specified your scope of request and requested such a document be provided to me for the purposes of this FOI request
- Received a response advising such a document doesn't exist within this agency

I'm satisfied I've contacted the appropriate area within the department who are responsible for the types of matters detailed within your scope of request. I'm satisfied the relevant line area understands the document being requested.

The relevant line area within the department has more specifically advised that the provisioning within the Commonwealth contract with Transfield Services provides the department may in some circumstances request to peruse a subcontract on request. At this point in time there has been no specific need for the department to specifically request a copy of any subcontract between Transfield Services and Wilson Security for the purposes of services being provided on Manus Island.

Based upon the fact the department hasn't requested a non-commonwealth contract involving Transfield Services and Wilson Security for this agency's examination I'm satisfied such a document doesn't exist.

I'm satisfied that based upon the information above and the fact I've contacted the appropriate line area within the department whom don't hold the document specified, all reasonable steps have been taken to locate the document and the document does not exist (section 24A(1)(b)(ii)).

Ashley Smith  
Authorised decision maker  
FOI and Privacy Policy Section  
Ministerial, Executive and External Accountability Branch  
Department of Immigration and Border Protection  
Telephone (02) 6225 8037  
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