



Our ref. 188/2020

Ben Frengley
Via email
foi+request-6336-93841f6f@righttoknow.org.au

Dear Ben,

Notice of intention to refuse FOI request - request consultation process

1. Your revised FOI request, dated 12 May 2020 and received by the DTA on 12 May 2020, requested access to:

the following documents (as set out in the Trusted Digital Identity Framework Accreditation Process documentation), for the identity services provided by the Australian Tax Office and Australia Post, as well as for any existing accredited Identity Exchanges:

- *TDIF Application Letters*
- *Statements of Applicability*
- *Completed Accreditation Plans*
- *Assessor Findings reports*
- *Reports covering technical integration testing and service operations readiness*
- *TDIF Memorandum of Understanding*
- *Assessment Plans, Assessment Reports, and Qualifying Attestation Letters provided as part of annual assessments*
- *Exemption requests and related evidence*
- *Formal responses to or acknowledgement of any of the above documents*
- *Compliance and remediation advisories*
- *Requests for access to Restricted Attributes and related evidence*

2. This is a notice of an intention to refuse access to the documents you have requested because a practical refusal reason exists under s 24(1) of the FOI Act. I am issuing this notice under s 24AB(2) of the FOI Act.
3. The practical refusal reason is that the work involved in processing the request would substantially and unreasonably divert the resources of the DTA from its other operations as specified in s 24AA(1)(a)(i) of the FOI Act.

Request is substantial

4. Following our electronic searches of documents, I have identified 48 documents totalling 2,545 pages relevant to your request as presently framed. I estimate that retrieval and processing of these documents so they can be reviewed for decision making would require 5 hours.

5. The nature of the documents you have requested captures deliberations and documents that are likely to include information with commercial or security implications.
6. In addition to the significant volume of material that would need to be reviewed, the inherent complexity of the material will require a detailed and careful analysis and review to make a decision. I estimate 2 minutes per page would be required for document review and decision making. I also estimate that consultation with up to three third-parties would be required and would take 3 hours. It is also reasonable to expect that a significant amount of material might require redaction to exclude exempt parts and would require a further 2 minutes per page. Further time would be required to prepare a decision and statement of reasons and reflect this in a schedule of documents.
7. In total, I estimate this would require over 138 hours of processing time to deal with this request. In other words, if one person were to dedicate themselves to processing this request full time, it would take them over three weeks. I am satisfied that this is a 'substantial' request.

Request is unreasonable

8. For the purpose of providing you with this notice, I have considered that the substantial resource burden would be unreasonable having regard to:
 - the fact that the work involved in processing your request will require DTA staff to be taken away from their usual duties for a substantial period of time.
9. This is consistent with guidance from the Administrative Appeals Tribunal in *VMQD and Commissioner of Taxation (Freedom of information)* [2018] AATA 4619 (17 December 2018) about the threshold for a practical refusal reason where SM Puplick commented that:

[100] The Information Commissioner has noted in relation to the other element of the test that, “whether or not disclosure would be “unreasonable” is a question of fact and degree which calls for a balancing of all the legitimate interests involved.”

[101] What constitutes valid practical refusal grounds is thus agency specific and resource dependent. Nevertheless for any agency, a burden in excess of 200 hours would almost certainly make the threshold of a rational and objective test. As is illustrated above, burdens as (relatively) small as 74 hours have been so characterised.

What you should do

10. I am the agency officer with whom you may consult with a view to making the request in a form that would remove the ground for refusal. You can contact me on 02 6120 8541.
11. I will assist you, as far as possible, to revise your request so that the practical refusal reason no longer exists. If you are able to narrow the scope of your request or clarify more particularly the information you are seeking, that may assist. I would be pleased to discuss with you in greater detail how your request might be appropriately further revised.
12. You have 14 days from the date you receive this notice to either:
 - withdraw your request
 - make a revised request
 - indicate you do not wish to revise your request.

13. If you do not respond in one of these ways within 14 days your request will be taken to have been withdrawn pursuant to s 24AB(7) of the FOI Act. If you indicate you do not wish to revise your request, I will proceed to make a decision on whether to refuse your request on resource grounds under s 24(1). If you need more time to respond, please contact me within the 14 day period to discuss your need for an extension of time.
14. Under s 24AB(8) of the FOI Act, the time for processing your FOI request is suspended from the day you receive this notice until the day you do one of the things listed in paragraph 12 above.

Yours sincerely,
Morgan

FOI Officer

Date: 13/05/2019