



Our ref: 66405

Harry Witherspoon

By email: [foi+request-6427-87950475@righttoknow.org.au](mailto:foi+request-6427-87950475@righttoknow.org.au)

Dear Mr Witherspoon

**Freedom of Information Act 1982 – Notice of charges and consultation**

I refer to your correspondence received by the Department of Industry, Science, Energy and Resources (the department) on 25 June 2020, and subsequent correspondence to clarify the scope of your request, in which you sought access under the *Freedom of Information Act 1982* (the FOI Act) to the following:

- 1) The contract (CN ID: CN3495925) between TMINUS ACCELERATOR and Department of Industry, Science, Energy and Resources.*
- 2) all email messages and attachments shared between regional incubator facilitator Daniel Smith and any recipient with an email address at the domain @masschallenge.org from 1 April 2018 to date.*
- 3) the Incubator Support Initiative grant application (GA ID: GA35362) for 'MedTech's got talent' lodged by THE ACTUATOR OPERATIONS LTD, and*
- 4) all email messages, attachments and documents shared with Daniel Smith that mention or pertain to the MedTech's got talent project or its grant application under (3) above.*

**Notice of Consultation**

Your request covers documents that contain information about the business affairs of certain organisations.

Under section 27 of the FOI Act where a request is made for a document containing information about the business affairs of an organisation (section 27) and it appears organisation may reasonably wish to contend that the information is exempt or conditionally exempt, the department must give the organisation a reasonable opportunity to make a submission in support of the contention.

Under sections 27 of the FOI Act the department must have regard to any submissions made by the organisation before making a decision to give access to the document.

**Timing for consultation with third parties**

Given that consultation with a third party is required, subsection 15(6) of the FOI Act extends the standard statutory 30-day time limit for processing requests by another 30 days. Accordingly, this will give the department 60 days within which to notify you of its decision on access to the documents.

### **Notice of Liability to Pay a Charge**

I am an authorised decision maker under section 23 of the FOI Act.

In accordance with section 29 of the FOI Act, I have decided that you are liable to pay a charge in respect of the processing of your request, being \$562.36.

### **Estimate of charge**

My preliminary assessment of that charge is based on approximately 12 documents (consisting of 179 pages) falling within the scope of your request and at least one third party who will need to be consulted under section 27 of the FOI Act. I have also taken into account the fact that the first five hours of decision making time are free to all applicants requesting documents other than their own personal information.

Search and Retrieval – 4.25 hours at \$15 per hour	\$	63.75
Decision making time – 29.93 hours at \$20 per hour	\$	598.61
<b>Total</b>	<b>\$</b>	<b>662.36</b>
First 5 hours free	\$	-100.00
<b>Final amount</b>	<b>\$</b>	<b>562.36</b>
<b>Deposit</b>	<b>\$</b>	<b>140.59</b>

Payment of the deposit will only entitle you to a decision. The document will be released upon payment of the balance of the charge.

### **Processing your FOI request**

Please note that the department will not make a decision on the potential release of any documents until charges are paid to, or remitted by, this department, whether in the form of a deposit or payment in full. In accordance with section 31 of the FOI Act, the time limit for processing your request is suspended from the day you receive this notice and will resume on either the day the charge or deposit is paid, or on the day on which the department makes a decision not to impose a charge.

### **Your rights and alternatives**

You may contend that the charge has been wrongfully assessed, should be reduced or not imposed. In deciding whether to reduce or not impose a charge the decision maker must, among other things, take into account whether payment of the charge, or part of it, would cause you financial hardship and whether the giving of access to the documents is in the general public interest.

If you would like the department to continue processing your request, you must notify the department in writing within 30 days of receiving this notice that you:

- A. agree to pay the charge;
- B. wish to contend that the charge:
  - (i) has been wrongly assessed; or
  - (ii) should be reduced or not imposed; or
  - (iii) both
- C. withdraw the request for access.

Further information on options A, B and C is set out below.

## Option A – pay the charge

As the charge exceeds \$100, you are required to pay a deposit of \$140.59 which is 25% of the total amount, within 30 days of receiving this notice. You may, of course, elect to pay the charge in full at this point.

### Payment

If you accept liability for the estimated charge for your request, payment can be made via one of the following three options:

- **Cheque:**

Please make the cheque payable to the Collector of Public Monies and mark it attention to:

The FOI team  
Department of Industry, Science, Energy and Resources  
GPO Box 2013  
CANBERRA ACT 2601

- **Credit card:**

The department accepts visa or master card. If you would like to pay by credit card please complete the enclosed credit card payment request form, return a scanned copy to the [CPM@industry.gov.au](mailto:CPM@industry.gov.au) and copy the FOI team in your email at [FOI@industry.gov.au](mailto:FOI@industry.gov.au).

- **Electronic Funds Transfer:**

The department also accepts EFT payments. Please see bank details below:

Bank Name:	Reserve Bank of Australia
Bank Address:	20-22 London Circuit Canberra ACT Australia
Account Name:	Department of Industry, Science, Energy and Resources
BSB No:	092-009
Account No:	118689

Please include reference to FOI LEX 66405 in all forms of payment, and notify the FOI team at [FOI@industry.gov.au](mailto:FOI@industry.gov.au) once payment has been made. Failure to include your reference number and notify the FOI team of payment will result in delays of the processing of your FOI request.

## Option B – seek reduction or non-imposition of the charge

You may contend that the charge has been wrongly assessed, or should be reduced or not imposed. Subsection 29(5) of the FOI Act provides that in deciding whether to reduce or not to impose a charge, the decision maker must take into account any relevant reasons. This includes whether payment of the charge, or part of it, would cause you financial hardship, and whether the giving of access to the documents is in the general public interest or in the interest of a substantial section of the public.

If you wish to contend that the charge has been wrongly assessed or should be reduced or not imposed, please set out your reasons and the evidence in support of your reasons as clearly as possible. If you believe that payment of the charge would cause you financial hardship, please provide sufficient details of your financial circumstances to enable the decision maker to make a well informed decision in this regard.

### **Option C – withdraw your request**

If you wish to withdraw your request you may do so in writing.

If you fail to notify the department in a manner mentioned above within 30 days of receipt of this notice it will be taken that the request has been withdrawn.

Should you have any queries in relation to this matter please contact the FOI team by e-mail at [FOI@industry.gov.au](mailto:FOI@industry.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sasha Pesic', written over a vertical line.

Sasha Pesic  
Senior FOI Officer  
Legal, Audit and Assurance  
15 July 2020