



Mr John Smith

Via email: [foi+request-6457-7916ce7f@righttoknow.org.au](mailto:foi+request-6457-7916ce7f@righttoknow.org.au)

Dear Mr Smith

### Decision on your Freedom of Information request

I refer to your request, received by the Department of Agriculture, Water and the Environment (**department**) on 3 July 2020 for access under the *Freedom of Information Act 1982 (FOI Act)* to the following documents:

*'A document that contains the total number of non-APS staff, filling equivalent roles to actual APS staff in your department.*

*Typically these employees are ostensibly employed through labour hire agencies, and fulfil functionally equivalent roles to their colleagues.*

*If no such document exists please advise.'*

On 10 July 2020, the department wrote to you providing you with the following data:

Non-APS staff	1,015
APS employees (including SES)	7,246

*Notes on the data:*

- Non-APS staff includes contractors, service providers and consultants that require access to the Department's building and IT systems. Data does not include contractors employed in the former Department of Environment and Energy. Figures are head count. Data includes staff working for Parks Australia

On 10 July 2020, you wrote back to the Department with the following information:

*'I still would like to continue with my FOI request however; as the information you have generously provided under administrative [sic] release does not contain a key detail that I am interested in.*

*I would like to know how many of those 1,015 Non-APS staff; are working in roles that are substantially identical to other APS employees.*

*As an example to explain what I mean; at the Administrative Appeals Tribunal, there are APS employees that are employed as 'tribunal service officers'. However, there are also non-APS staff that while being employed as contractors; fulfil exactly the same tasks as their colleagues [sic], have the same job description, manager, etc (except they work under a non-APS contract).*

*I am hoping to find out how many working at your department are working under that specific type of arrangement.*

*For example; if a person was employed as a contractor cleaner, but there was no equivalent APS cleaner role at the organisation, then they would be excluded from that headcount.'*

## **My decision**

I have decided to refuse your request for access to documents under section 24A of the FOI Act on the basis that all reasonable steps have been taken to locate the documents you have requested and I am satisfied that they do not exist.

## **What I took into account**

In reaching my decision, I took into account:

- your request dated 3 July 2020 the additional information you provided on 10 July 2020;
- information about:
  - the nature of the documents; and
  - the department's operating environment and functions;
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**Guidelines**); and
- the FOI Act.

## **Reasons for my decision**

I am authorised to make decisions under section 23(1) of the FOI Act.

### Section 24A of the FOI Act

Section 24A of the FOI Act provides that:

- (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.

The relevant area in the department, the Capability, Change and Planning Branch, conducted searches of the department's record keeping systems, no documents were identified matching the description you provided. The department does not collect relevant data on non-APS staff to undertake detailed analysis to provide the requested data.

On the basis of these searches, I am satisfied, in accordance with section 24A of the FOI Act, that all reasonable steps have been taken to find the documents and the documents do not exist.

## **You can ask for a review of my decision**

If you wish to seek an internal review, you must apply to the department within **30 days** after the day you are notified of this decision. An application for internal review must be made in writing by post to the FOI Officer or email to [foi@agriculture.gov.au](mailto:foi@agriculture.gov.au).

Alternatively, you may apply directly to the Office of the Australian Information Commissioner (**OAIC**) to review my decision. An application for review by the Information Commissioner must

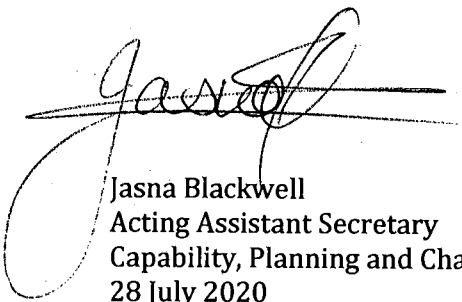
be made in writing within **60 days** after the day you are notified of this decision. You can also make a complaint to the Information Commissioner if you have concerns about how the department handled your request.

You can find information about requesting a review, making a complaint, and other information about FOI on the OAIC website [www.oaic.gov.au](http://www.oaic.gov.au) or phone the OAIC on 1300 363 992.

**Further assistance**

If you have any questions, please email [foi@agriculture.gov.au](mailto:foi@agriculture.gov.au).

Yours sincerely



Jasna Blackwell  
Acting Assistant Secretary  
Capability, Planning and Change Branch, People Division  
28 July 2020