



4 September 2020

Mr John Smith
BY EMAIL: @

In reply please quote:

FOI Request: FA 20/06/00821-R1
File Number: OBJ2020/19987

Dear Mr Smith

Decision on Internal Review – Freedom of Information Act 1982

I refer to your correspondence dated 5 August 2020 in which you requested that the Department of Home Affairs (the Department) review its decision on access to documents dated 5 August 2020 under the *Freedom of Information Act 1982* (the FOI Act).

1 Scope of original request

The scope of your original request for access to documents under the FOI Act was as follows:

A copy of the contract with commonwealth tender ID CN315697, between DHA and Launch Recruitment Pty Ltd, publish date 25 March 2011.

2 Original Decision on access dated 5 August 2020

The Department identified one document as falling within the scope of your original request. This document was in the possession of Department on 18 June 2020 when your FOI request was received.

The original decision maker decided to:

- Release one document in part with deletions.

3 Request for Internal Review

On 5 August 2020, you requested the Department to review its decision dated 5 August 2020. In part, you submitted that the 47G exemption should not apply because:

‘the amount paid, nearly 9 years ago, could not reasonably be expected to prejudice the lawful business of anyone. This is because the information is from such a long time ago (and unlikely to reflect current rates that are being paid), and because it is such an unimportant piece of information that it could not reasonably be considered as something that would affect the business’.

4 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.

In accordance with section 54C(3) of the FOI Act, I have made a fresh decision on your FOI request.

5 Information considered

In reaching my decision, I have considered the following:

- the scope of your request
- the Department's original decision of 5 August 2020 and the evidence gathered for that decision
- your submissions in relation to your reasons for requesting an internal review
- the documents falling within the scope of your request
- advice from departmental officers with responsibility for matters relating to the information to which you sought access
- the FOI Act, and
- the Australian Information Commissioner's guidelines relating to the interpretation, operation and administration of the FOI Act (the FOI guidelines).

6 Internal Review Decision

I have decided to vary the original decision by:

- Removing the 47G exemption applied in the original decision.
- Affirming the 47F exemption applied in the original decision.

7 Reasons for Internal Review Decision

I have reviewed the documents that fall within the scope of this request and I have considered the submissions made by you in relation to your reasons for requesting an Internal Review.

I have consulted with the responsible business area and Launch Recruitment, who have both consented to release the financial information previously exempt under section 47G.

The schedule of the one document that falls within the scope of your Internal Review at **ATTACHMENT A** sets out the decision on access and, where appropriate, refers to various sections of the FOI Act.

My reasoning in relation to the application of each section to particular documents is set out below.

7.1 Section 22 of the FOI Act – irrelevant to request

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

On 18 June 2020, the Department advised you that its policy is to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile and

work telephone numbers of SES staff, contained in documents that fall within scope of an FOI request.

I have decided that parts of document marked 's22(1)(a)(ii)' would disclose information that could reasonably be regarded as irrelevant to your request. I have prepared an edited copy of the document, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

The remainder of the document has been considered for release to you as it is relevant to your request.

7.2 Section 47F of the FOI Act – Personal Privacy

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information of any person. 'Personal information' means information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not, and whether the information or opinion is recorded in a material form or not (see s 4 of the FOI Act and s 6 of the *Privacy Act 1988*).

The document in scope of your request contains the names of external third parties employed by Launch recruitment.

I consider that disclosure of the information marked 's47F' in the documents would disclose personal information relating to third parties. The information within the documents would reasonably identify a person, either through names, positions or descriptions of their role or employment circumstance.

The FOI Act states that, when deciding whether the disclosure of the personal information would be 'unreasonable', I must have regard to four factors set out in s.47F(2) of the FOI Act. I have therefore considered each of these factors below:

- *the extent to which the information is well known;*
- *whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;*
- *the availability of the information from publicly available resources;*
- *any other matters that I consider relevant.*

The information relating to the third parties is not well known and would only be known to a limited group of people with a business need to know. As this information is only known to a limited group of people, the individual(s) concerned is/are not generally known to be associated with the matters discussed in the document. This information is not available from publicly accessible sources.

I do not consider that the information relating specifically to the third parties would be relevant to the broader scope of your request, as you are seeking access to financial information rather than information which wholly relates to other individuals.

I am satisfied that the disclosure of the information within the documents would involve an unreasonable disclosure of personal information about a number of individuals.

I have decided that the information referred to above is conditionally exempt under section 47F of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard at paragraph 7.3 below.

7.3 The public interest – section 11A of the FOI Act

As I have decided that parts of the document are conditionally exempt, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

A part of a document which is conditionally exempt must also meet the public interest test in section 11A(5) before an exemption may be claimed in respect of that part.

In summary, the test is whether access to the conditionally exempt part of the document would be, on balance, contrary to the public interest.

In applying this test, I have noted the objects of the FOI Act and the importance of the other factors listed in section 11B(3) of the FOI Act, being whether access to the document would do any of the following:

- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
- (b) inform debate on a matter of public importance;
- (c) promote effective oversight of public expenditure;
- (d) allow a person to access his or her own personal information.

Having regard to the above I am satisfied that:

- access to the document would promote the objects of the FOI Act.
- the subject matter of the document does not seem to have a general characteristic of public importance. The matter has a limited scope and, in my view, would be of interest to a very narrow section of the public.
- insight into public expenditure will be provided through examination of the document.
- you do not require access to the document in order to access your own personal information.

I have also considered the following factors that weigh against the release of the conditionally exempt information in the document:

- disclosure of the personal information which is conditionally exempt under **section 47F** of the FOI Act could reasonably be expected to prejudice the protection of those individuals' right to privacy.
- The Department is committed to complying with its obligations under the *Privacy Act 1988*, which sets out standards and obligations that regulate how the Department must handle and manage personal information. It is firmly in the public interest that the Department uphold the rights of individuals to their own privacy and meets its obligations under the Privacy Act. I consider that non-compliance with the Department's statutory obligations concerning the protection of personal information would be contrary to the public interest and that this factor weighs strongly against disclosure.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- b) access to the document could result in any person misinterpreting or misunderstanding the document;

- c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
- d) access to the document could result in confusion or unnecessary debate.

I have not taken into account any of those factors in this decision.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the documents would be contrary to the public interest and it is therefore exempt from disclosure under the FOI Act.

8 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. If you are unable to access the legislation through this website, please contact our office for a copy.

9 Your Review Rights

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 this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <https://www.oaic.gov.au/freedom-of-information/foi-review-process>.

10 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

11 Contact

Should you wish to discuss my decision, please do not hesitate to contact via email at xxx.xxxxxxx@xxxxxxxxxxx.xxx.xx

A handwritten signature in blue ink, appearing to be 'Andrea', written over a faint circular stamp.

Andrea
Authorised Decision Maker
Department of Home Affairs

ATTACHMENT A

**SCHEDULE OF DOCUMENTS
REQUEST UNDER *FREEDOM OF INFORMATION ACT 1982***

FOI request: FA 20/06/00821-R1

File Number: OBJ2020/19987

N o.	Date of document	No. of pages	Description	Decision on release
1.	28 June 2010	14	Agreement between Commonwealth of Australia and Launch Recruitment - ID CN315697	Exempt in part under section 47F