



Australian Government

Department of Health

Department Reference: FOI 1852

John Smith

Via email: foi+request-6546-c667310b@righttoknow.org.au

Dear Mr Smith

**NOTICE OF DECISION UNDER SECTION 24A
OF THE FREEDOM OF INFORMATION ACT 1982**

I refer to your request of 3 July 2020 to the Department of Health (the department) seeking access under the *Freedom of Information Act 1982* (Cth) (the Act) to the following documents:

A document that contains a list of all the position/job titles of every non-APS contractor working within your department.

e.g. a position title may be: 'security guard', or 'consultant', or 'APS3 FOI officer', etc.

You may omit repeating a position title when there exist multiple contractors who have that position title. Additionally, if it would not be too onerous, please indicate the number of contractors that hold each position title.

If no such document exists please produce a document containing the information under s17.

FOI decision

I am authorised under subsection 23(1) of the Act to make decisions in relation to Freedom of Information requests. I am writing to notify you of my decision on your request.

No documents exist

Appropriate steps have been taken to find the documents referred to in your request including searches of departmental file management systems.

I am satisfied, on the basis of the searches conducted, that the documents referred to in your request do not exist.

As a consequence, relying on section 24A of the Act, I cannot provide access to the documents you requested.

Production of a document

Section 17 of the Act applies where an FOI request is made to an agency for information that is not available in discrete form in written documents held by the agency.

In certain circumstances, paragraph 17(1)(c) of the Act requires the agency to produce a written document containing the information requested by using a 'computer or other equipment that is ordinarily available' to the agency for retrieving or collating stored information or by making a transcript from a sound recording.

However, subsection 17(2) does not require an agency to produce a written document containing the requested information where doing so would substantially and unreasonably divert the resources of the agency from its other operations.

The factors I have taken into account when determining whether producing a document to satisfy your request would be a substantial and unreasonable diversion of resources within the meaning in subsection 17(2) are:

- the staffing resources available to the department for processing FOI requests; and
- the impact that processing the request may have on other work in the department.

Following consultation with the relevant business unit and taking the above factors into account, I am satisfied that processing your request by producing a discrete document would require substantial and unreasonable diversion of resources in the department away from priority work, including management of the coronavirus pandemic.

Accordingly, I have decided the department is not required to produce and provide a document to you as if the department had such a document in its possession.

As a consequence, relying on subsection 17(2) of the FOI Act, I cannot provide access to the document you requested.

FOI review rights

If you are dissatisfied with my decision, you may apply for a review.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the department for an internal review of my decision. The internal review application must be made within 30 days of the date of this notice (or such further period as the department allows). To assist in the internal review process, please provide reasons you consider review of my decision is necessary. The internal review will be carried out by another officer of this department within 30 days of receipt of your application.

An application for an internal review should be sent to:

Email: FOI@health.gov.au
Mail: FOI Unit (MDP 516)
Department of Health
GPO Box 9848
CANBERRA ACT 2601

Information Commissioner review

Alternatively, under section 54L of the FOI Act, you may apply to the Office of the Australian Information Commissioner (OAIC) for review my decision by the Information Commissioner. An application for review must be made in writing within 60 days of this notice (if you do not request an internal review).

More information about Information Commissioner review is available on the OAIC website at: <https://www.oaic.gov.au/freedom-of-information/reviews/>

The OAIC can be contacted by:

Email: enquiries@oaic.gov.au
Phone: 1300 363 992

You may also make a complaint to the OAIC about action taken by the department in relation to your application. Further information about this process is available on the OAIC website.

Relevant provisions of the FOI Act

The FOI Act, including the provisions referred to in this letter, can be accessed from the Federal Register of Legislation website:

<https://www.legislation.gov.au/Details/C2020C00110>

Additional information

While the department does not hold documents relevant to your request, the following information, provided outside the FOI Act, may be of assistance to you.

The department aspires to be a high performing organisation with a positive culture based on collaboration, innovation, respect and staff engagement. We measure our performance and culture through the Australian Public Service Commission Employee Census, internal surveys and key human resource measures including workforce planning metrics, skills and capability and diversity benchmarks. As at 30 June 2019, 4,280 ongoing and non-ongoing staff were engaged by the department.

Additional information about the department's activities, including access to publications such as the corporate plan and annual reports is available here: <https://www.health.gov.au/about-us/corporate-reporting>

In addition, the Australian Government *Transparency Portal* is the central repository of publicly available corporate information for all Commonwealth bodies. Over time, the portal is to become the single definitive source of Commonwealth corporate information, providing easy access to the information for the public.

More information about the Transparency Portal, including links to publications and related resources that may be of interest to you, is available here: <https://www.transparency.gov.au/>

Contacts

If you require clarification of any of the matters discussed in this letter you should contact the department's Freedom of Information Unit on (02) 6289 1666 or at FOI@health.gov.au.

Yours sincerely



K Bishop
Principal Lawyer
Legal Advice & Legislation Branch

30 September 2020