



Australian Government
Department of Social Services

Our reference: FOI 2021-013

John Smith

By email: foi+request-6570-c0a3c634@righttoknow.org.au

Dear Mr Smith

I refer to your correspondence received by the Department of Social Services (the department) on 3 August 2020, in which you requested access under the Commonwealth *Freedom of Information Act 1982* (FOI Act) to:

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.

As previously advised, the department excludes draft and duplicate documents, as well as the names, contact details and signatures of non-Senior Executive Staff. Accordingly, I have deemed this information irrelevant to your request in accordance with section 22 of the FOI Act.

Decision

I am authorised to make decisions under subsection 23(1) of the FOI Act. My decision and the reasons for that decision are set out below.

A search for records held by the department did not identify any documents falling within scope of your request.

I have decided to refuse access to documents of the request under section 24A of the FOI Act [requests may be refused if documents cannot be found, do not exist or have not been received] as they do not exist.

In reaching my decision, I have taken the following material into account:

- your correspondence dated 3 August 2020 outlining the particulars of your request for documents under the FOI Act;
- consultation with departmental officers as to the information held by the department;
- the Commonwealth FOI Act; and
- the guidelines issued by the Australian Information Commissioner (the Guidelines).

Reasons for decision

An agency or Minister may refuse a request for access to a document under section 24A(1)(b)(ii) of the FOI Act 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 department does not hold any documents that list position/job titles of every non-APS contractor.

I turned my mind to the second part of your request that states:

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

The obligation to produce a written document under this section arises if:

- the agency could produce a written document containing the information by using a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information, and
- producing a written document would not substantially and unreasonably divert the resources of the agency for its other operations.

I considered whether the department could create a document in accordance with section 17 of the FOI Act. As the requested information is not held by the department, I am satisfied the document is unable to be created under section 17 of the FOI Act.

Therefore, I am refusing access to a list of all the position/job titles of every non-APS contractor under section 24A of the FOI Act on the grounds the document does not exist.

Rights of review

Information about your rights to seek a review of this decision are attached.

Yours sincerely



Judy Lamb
Assistant Director
Freedom of Information
Government and Executive Services Branch
21 August 2020