



**Australian Government**  
**Department of Industry, Science,  
Energy and Resources**

Our ref: 66717

Mr John Smith  
Right to Know

By email: [foi+request-6571-a45fe5a7@righttoknow.org.au](mailto:foi+request-6571-a45fe5a7@righttoknow.org.au)

Dear Mr Smith

**Freedom of Information Act 1982 – Notice of Decision**

I refer to your correspondence received by the Department of Industry, Science, Energy and Resources (**the department**) on 3 August 2020, for access under the *Freedom of Information Act 1982 (FOI Act)* as follows:

*A list of all the position/job titles of every non-APS contractor working within your department.*

**Background**

On 14 August 2020 you were notified that you were liable to pay a charge for the processing of your request in the amount of \$74.25.

On the same day, being 14 August 2020, you requested the charges be waived in full based on the grounds of public interest.

On 25 August 2020 the department received a payment in the amount of \$74.25 for the processing of your request.

On the same day, being 25 August 2020, you withdrew your request for the charges to be waived.

**Decision**

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

I am satisfied that all reasonable searches have been undertaken for documents relevant to your request.

Section 17 of the FOI Act provides that in instances where it appears from the request that the applicant is seeking information that is not available in discrete form in written documents of the agency, and the agency could produce a written document containing the information in discrete form by the use of a computer or other equipment ordinarily available to the agency, the agency shall deal with the request as if it were a request of access to a written document so produced and containing that information.

An agency is not, however, required to produce such a document if it would substantially and unreasonably divert the resources of the agency from its other operations.

In this instance, the information you have sought is not available in discrete form in written documents held by the department. However, the department was able to produce a written document containing the requested information in discrete form by the use of a computer or other equipment available to the department. The department has therefore, in this particular instance, created one document under section 17 of the FOI Act that is relevant to your request. This document is described in the Schedule of Documents at **Attachment A**.

I have decided to grant access to one document in full.

The reasons for my decision are set out below, as required by section 26 of the FOI Act, in Part A of the Annexure.

### **Final Decision on Charges**

The preliminary estimate of charges associated with processing this FOI request was \$74.25, which includes the first five hours of decision making at no cost.

In accordance with the *Freedom of Information (Charges) Regulations 1982* (the Charges Regulations), I have calculated the actual costs associated with processing your request and have decided that the final total amount for processing this FOI request is \$75.58. While these charges exceed the estimate of charges previously provided to you, the Charges Regulations provides that a higher amount can be charged if providing full access to the documents. However, given the number of documents and the minor difference between the estimate and actual charges, I have decided not to impose the actual charges.

As you have already paid the estimate of \$74.25 in full, the documents are now being released to you.

If you are dissatisfied with my decision, your review rights are set out in Part B of the Annexure.

Yours sincerely



Michael Olive  
General Manager  
Portfolio Budget, Accounting & Financial Policy Branch  
28 August 2020

### **Enclosures**

Annexure (Part A – Statement of Reasons and Part B – Review Rights)  
Attachment A – Schedule of Documents

Annexure

Part A – Reasons for Decision (section 26 FOI Act)

Request: Paul Farrell – 19 June 2020 (LEX 66379)

Decision Maker: Michael Olive, General Manager, Portfolio Budget, Accounting & Financial Policy

**1. Evidence/Material on which my findings were based**

1.1 In reaching my decision, I relied on the following information and documentary evidence:

- the FOI Act;
- the contents of the documents described in Attachment A;
- your correspondence setting out the particulars of your request;
- consultation with departmental officers as to the nature of the documents; and
- the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

**2. Section 17 – Requests involving use of computers etc.**

2.1 Section 17 of the FOI Act permits an agency to create a document where the information requested is not available in discrete form in written documents held by the agency.

*17 (1) Where:*

- (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;*
- (b) it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and*
- (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and*
- (c) the agency could produce a written document containing the information in discrete form by:*
  - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or*
  - (ii) the making of a transcript from a sound recording held in the agency;*

*the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.*

*(2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.*

2.2 Accordingly, the department was able to produce a written document containing the requested information in discrete form by the use of a computer or other equipment available to the department. The department has therefore, in this particular instance, created one document under section 17 of the FOI Act that is relevant to your request and will be released to you in full.

### **3. Publication**

- 3.1 Section 11C of the FOI Act requires agencies to publish documents released through an FOI request on our website within 10 days of release, except in certain circumstances including when the documents contain personal or business information that would be unreasonable to publish.
- 3.2 The document being released to you does not contain any personal or business information that would be unreasonable to publish. As a result, it will be published on our disclosure log within 10 days of the document being released to you.



## **Part B – Review Rights**

### **Application for Internal Review**

Section 54 of the FOI Act gives you the option to apply for a departmental internal review of my decision. If you make an application for internal review it will be conducted by an officer of the department (other than me) appointed by the Secretary of the department to conduct a review and make a completely fresh decision on the merits of the case.

Application for a review of the decision must be made within 30 days after the day of receipt of this letter, or within 15 days of receipt of the documents to which this decision relates (whichever is the longer period). You do not have to pay any fees or processing charges for an internal review, except for charges relating to the provision of any additional relevant material located as a result of the review (for example photocopying). While a specific form is not required, it would assist the decision maker if your application specifies the grounds on which you consider the decision should be reviewed.

Application for a review of a decision should be addressed to:

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

or by e-mail to: [FOI@industry.gov.au](mailto:FOI@industry.gov.au).

### **Review by the Australian Information Commissioner**

If any decision on internal review were not satisfactory to you, section 54L of the FOI Act gives you the right to apply for review of my decision by the Information Commissioner.

An application for review by the Information Commissioner may be made regardless of whether the decision was the subject of a departmental internal review. An application for review by the Information Commissioner must be made within 60 days of receipt of this notice. There is no fee for review by the Information Commissioner.

You must apply in writing and you can lodge your application in one of the following ways:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)  
Post: GPO Box 5218, Sydney NSW 2001  
Fax: +61 2 9284 9666  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

An application form is available on the website at [www.oaic.gov.au](http://www.oaic.gov.au). Your application should include a copy of this notice and your contact details. You should also set out why you are objecting to the decision.

### **Complaints to the Australian Information Commissioner**

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. The Australian Information Commissioner will make a completely independent investigation of your complaint. A complaint to the Australian Information Commissioner must be made in writing and can be lodged online using the Information Commissioner Complaint Application form on the Australian Information Commissioner's website at [www.oaic.gov.au](http://www.oaic.gov.au).

Request for Access under the *Freedom of Information Act 1982* (Cth)  
 Department of Industry, Science, Energy and Resources  
 FOI Applicant: Paul Farrell  
 SCHEDULE OF DOCUMENTS

Doc No	Description of document	Pages	Decision	Reasons
1.	Position (Job) Titles	5	Release in full	