



Administrative Appeals Tribunal

FOI ref: 2020/0094

21 September 2020

Mr John Smith

Email: foi+request-6618-8da546b5@righttoknow.org.au

Dear Mr Smith,

Notice of Decision for Freedom of Information Request no. 2020/0094

The purpose of this letter is to give you a decision about access to documents that you have requested under the *Freedom of Information Act 1982 (FOI Act)*.

Summary

I am an officer authorised under s 23(1) of the FOI Act to make decisions in relation to FOI requests.

You lodged an FOI request on 20 August 2020 for access to:

1. *The actual dollar amount paid by the AAT, to Launch Recruitment; in association with Purchase Orders 4500000288, 4500000293, and 4500000368. (Document 1)*
2. *The total number of hours worked by the labour hire employees subject to each of those purchase orders. (Item 2)*
3. *The number of months worked by the labour hire employees subject to each of those purchase orders, at the AAT. (Item 3)*

Searches

I have liaised with the AAT's procurement team in order to identify the documents relevant to your request.

Document 1 - As the requested information does not already exist in a discrete document, I have processed your request under section 17 of the FOI Act. This means that we have used our existing computer systems to retrieve data to produce a written document for you. As a result, the document released to you records the total amount of payments made under each of the purchase orders identified in your FOI request.

Items 2 and 3 – The requested information does not already exist in a discrete document or in a report designed to contain this information. As such I have been unable to process these requests under section 17 of the FOI Act, as our existing

computer systems and software are unable to produce an individual document which contains the requested information without the aid of additional components. To obtain the requested information it would require various pieces of information to be extracted from different reports and for calculations to be made. Combining the various sources to obtain the total number of hours and months worked, will also take an unreasonable amount of time compared to producing a report from existing systems.

The obligation under section 17 of the FOI Act to produce a written document only arises if the Tribunal can produce the written document containing the information by using a 'computer or other equipment that is ordinarily available' for retrieving or collating stored information, or making a transcript from a sound recording, and producing a written document would not substantially and unreasonably divert the resources of the Tribunal from its operations. I consider that these conditions are not met in relation to obtaining the information requested in items 2 and 3 and find that the obligation under section 17(1) does not arise.

Decision

I have decided to:

1. Grant partial access to Document 1,
2. Refuse access to items 2 and 3 of your request.

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

- the content of the document that falls within the scope of your request;
- the FOI Act, specifically sections 17, 22, 24A, 47E(d) and 47G;
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

Document 1

Section 47G of the FOI Act – Business operations

Section 47G conditionally exempts documents where disclosure would disclose information concerning a person in respect of his or her business or professional affairs, or concerning the business, commercial or financial affairs of an organisation or undertaking (business information), where the disclosure of the information:

- would, or could reasonably be expected to, unreasonably affect the person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs (s 47G(1)(a)).

I have reviewed the document and have considered whether the dollar amounts of the purchase orders would have an unreasonable adverse effect, on the business or professional affairs of an individual, or the lawful business, commercial or financial affairs of an organisation or undertaking, if disclosed. I note that there may be an adverse effect, on Launch Recruitment's business affairs as it is reasonably likely that this information is not generally known to other competitors or external parties. Also, the

dissemination of this information to third parties for another purpose could unreasonably affect its lawful business, commercial or financial affairs. I have assessed these unreasonable effects against the public interests such as to promote effective oversight of public expenditure. I consider that the dollar amount for the three purchase orders are just one part of the agreement between Launch Recruitment and the Tribunal. I find that on balance the disclosure of these three figures would not prejudice the overall business affairs and operations of Launch Recruitment with the Tribunal.

For these reasons, I have decided that on this occasion, the information relating to the dollar amounts is *not* conditionally exempt under section 47G of the FOI Act.

Section 47E(d) of the FOI Act – Certain agency operations

Section 47E(d) of the FOI Act provides that information is conditionally exempt where its disclosure could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of agency operations.

I consider that the disclosure of the vendor number in the document would enable any person to use the vendor number to misrepresent themselves to the Tribunal, or any other Commonwealth entity, and request payment for services that have not been ordered or provided by them. I find that this risk is made more likely by the release of the information over an internet website and could be reasonably expected. Changes to the Tribunal's business practices would be required to prevent fraudulent use of the information and these would have a substantial adverse effect on the Tribunal's financial operations. Accordingly, I find the vendor number information is conditionally exempt under section 47E(d) of the FOI Act.

Public interest test – Section 11A(5) of the FOI Act

I have considered whether, disclosure of the vendor number would be contrary to the public interest. While disclosure would provide information to the public generally, I do not consider that the vendor number will assist the scrutiny of government expenditure. Whereas the risk of fraud, and the cost of amending processes to avoid fraud, is contrary to the interests of the taxpayer. On balance, I consider that the public interest in fraud avoidance and the minimisation of costs outweighs the interest in the provision of the particular vendor number. As a result, I have decided the vendor number information is exempt under 47E(d) of the FOI Act.

An edited copy of the document has been released to you with the exempt information redacted pursuant to section 22 of FOI Act.

Items 2 and 3 of your request

Section 24A of the FOI Act provides that, after all reasonable steps have been taken to find the documents, access to documents may be refused if the documents do not exist or cannot be found.

As mentioned above, the Tribunal is not required to produce or create a document in relation to items 2 and 3 of your request, as the obligation under section 17 of the FOI Act did not arise. As the Tribunal does not have an existing discrete document or a

report which contains the requested information, I am therefore satisfied that documents under items 2 and 3 do not exist. As such, I refuse access to the documents under section 24A of the FOI Act.

Your review rights

Information about how you can apply for a review of this decision or complain about how we have dealt with this matter is set out in the attached fact sheet, FOI 2.

If you have any questions about this decision, please contact me at foi@aat.gov.au.

Yours sincerely,

Rohini L

Authorised FOI Officer (APS 6)

Attachments

FOI 2 – Information about reviews and complaints under the Freedom of Information Act

Information about reviews and complaints under the Freedom of Information Act

What should I do prior to applying for internal review or contacting the Office of the Australian Information Commissioner?

Before you apply for an internal review or contact the Office of the Australian Information Commissioner, we recommend that you telephone the officer who made the FOI decision. It is often possible to resolve concerns or answer your questions using this approach and, if not, the officer will be able to assist you in applying for review.

How do I apply for internal review to the AAT?

You can apply to us for an internal review of the FOI decision. The application for internal review must be made within 30 days or such further period as we allow, after the day the decision is notified to you. To apply for an internal review you must do so in writing. You may also wish to explain why you are not satisfied with the decision. A different and more senior officer authorised under the *Freedom of Information Act 1982* (the FOI Act) will conduct the internal review and make a new decision within 30 days after receipt of your application.

If you have already applied for internal review and want to seek a further review of that decision, you will need to apply to the Australian Information Commissioner.

How do I apply for review to the Australian Information Commissioner?

You may also apply directly to the Australian Information Commissioner for review of the FOI decision. The application for review must be made within 60 days after the day notice of the decision was given. An application for review must be in writing, include details of how notices in relation to the review are to be sent to you and include a copy of the decision. You may also wish to explain why you are not satisfied with the decision. An online application form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

What if I want to make a complaint about the handling of a Freedom of Information request?

If you have a complaint about the way in which we have processed your request for access under the FOI Act you can ask the Australian Information Commissioner to investigate. An online complaint form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

Where can I find further information or contact details for the Office of the Australian Information Commissioner?

Further information is available on the Office of the Australian Information Commissioner's website at www.oaic.gov.au and you can contact the office on 1300 363 992 or by email at enquiries@oaic.gov.au.