



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

Our ref: 67231

Alby P.
Right to Know

By email: foi+request-6649-415fb367@righttoknow.org.au

Dear Alby

Freedom of Information Act 1982 – Notice of Internal Review Decision

I refer to your correspondence received by the Department of Industry, Science, Energy and Resources (the department) on 8 October 2020, requesting an internal review of a decision under section 54 of the *Freedom of Information Act 1982* (the FOI Act).

Background

In correspondence of 8 October 2020, you requested an internal review of the department's decision of 1 October 2020 (original decision). A copy of the original decision is attached for your reference.

In your correspondence you stated:

Please pass this on to the person who conducts Freedom of Information reviews.

A full history of my FOI request and all correspondence is available on the Internet at this address: [https://www.righttoknow.org.au/request/federal and state support of the](https://www.righttoknow.org.au/request/federal%20and%20state%20support%20of%20the)

I am writing to request an internal review of Department of Industry, Innovation and Science's handling of my FOI request 'Federal and state support of the incubator support initiative'.

The information about sources of funding for each of the ~50 approved applications is provided on ISI applications forms. Here is a link to the form (note section sources of funding):
https://www.business.gov.au/-/media/Grants-and-programs/Incubator-Support/Incubator-support-sample-application-form-new-and-existing-PDF.ashx?sc_lang=en&hash=06D41381A8586A148F82A5945A1C99EC

It should be a straightforward task for the department to note the source of funding for ~50 approved applications.

Internal Review Decision

I am an authorised internal review decision maker under section 23 of the FOI Act. I am required to make a fresh decision on behalf of the department and I am not bound by the original decision.

I am satisfied that reasonable searches have been undertaken by the department to locate documents relevant to the scope of your request and the documents do not exist. I am also satisfied that, in accordance with s17(2) of the FOI Act, creation of the requested document would substantially and unreasonably divert the resources of the department from its other operations. I agree with the reasoning provided in the original decision and I have decided to affirm the original decision.

In reaching my decision, I relied on the following:

- *Freedom of Information Act 1982*;
- Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act;
- your correspondence of 11 September 2020 outlining the particulars of your FOI request;
- the department's original decision of 1 October 2020;
- your correspondence of 8 October 2020 outlining the particulars of your request for an internal review;
- advice from departmental officers; and
- the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

Reasons for Decision

Section 24A of the FOI Act provides that requests may be refused if all reasonable steps have been taken to find a document and the document does not exist. The relevant electronic databases, files and corporate file lists in the department have been searched for the documents you have requested, and following these searches I am satisfied that all reasonable steps have been taken to find the documents requested.

Therefore, I am satisfied that the documents you have requested do not exist.

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 department, the department shall deal with the request as if it were a request of access to a written document so produced and containing that information.

The department is not, however, required to produce such a document if it would substantially and unreasonably divert the resources of the department 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. I am satisfied that the work involved to produce such a document would substantially and unreasonably divert the resources of the department from its other operations.

The search for relevant information and the creation of this document would involve reviewing over 150 applications to manually extract the relevant information you have requested. I note that one application consists of at least 30 pages excluding any attachments; attachments can increase the total pages of one application to approximately 200 pages. Therefore, I am satisfied with the reasoning in the original decision that creation of such a document would take at least 75 hours to create. This conservative estimate refers to the time required to create a document only, and has excluded the time required to process your FOI request.


Further, I note the department is experiencing a high volume of FOI requests, including from you, which is already diverting the resources of certain areas from their standard operations. I am satisfied creation of the requested document would be considered unreasonable as it would increase the already substantial diversion of the department's resources at the present time.

Review rights

If you are dissatisfied with any part of my decision, your review rights are set out in **Attachment A**.

Please do not hesitate to contact the FOI team by e-mail at FOI@industry.gov.au, if you require any further clarification.

Yours sincerely



Emma Greenwood
Head of Division
Support for Business

4 November 2020

Enclosures

Original Decision
Attachment A – Review Rights

REVIEW RIGHTS

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

Post: GPO Box 5218, Sydney NSW 2001

Fax: +61 2 9284 9666

Email: enquiries@oaic.gov.au

An application form is available on the website at 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

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.

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