



## Australian Government

### Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT  
BARTON

FOI/2020/231IR

#### INTERNAL REVIEW DECISION AND REASONS UNDER SECTION 54 OF *THE FREEDOM OF INFORMATION ACT 1982*

**REQUEST BY:** Mr Francis Unmeopa

**DECISION BY:** Ms Celeste Moran  
Acting First Assistant Secretary  
Government Division

By email: [foi+request-6670-951754c3@righttoknow.org.au](mailto:foi+request-6670-951754c3@righttoknow.org.au)

Dear Mr Unmeopa

I refer to your emails of 11 December 2020 and 27 December 2020 in which requested internal review of part of the decision (the **primary decision**) dated 1 December 2020 by Mr Peter Rush, Assistant Secretary, Parliamentary and Government Branch, Department of the Prime Minister and Cabinet (the **Department**) under the *Freedom of Information Act 1982* (the **FOI Act**).

Under section 54(2) of the FOI Act, an applicant is entitled to apply for an internal review of a decision refusing to give access to a document in accordance with a request.

#### **Authorised decision maker**

Section 54C(2) of the FOI Act provides that an agency must arrange for a person (other than the person who made the original decision) to review the decision.

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

#### **Internal review decision**

I have decided to affirm the primary decision that the following information on page 3 of Attachment C to document reference B09/1640 (Document 1 in the Department's primary decision) is conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest:

*[s47F] were hired by an international corporation to assist with the delivery of a gesture of good corporate citizenship.*

In reaching my decision I have had regard to:

- the terms of your FOI request of 2 October 2020;
- the material within the scope of the internal review;
- the primary decision;
- your email of 11 December 2020 in which you requested internal review;
- the Department's email of 24 December 2020 in which the Department sought clarification of your internal review request;
- your email of 27 December 2020 in which you clarified your request for internal review;
- the FOI Act; and
- the '*Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act*' (the **FOI Guidelines**).

## **Background**

### ***The FOI request***

On 2 October 2020, you made a request under the FOI Act to the Department in the following terms:

*I seek the Department's assessments justifying the award of The Humanitarian Overseas Service Medal to Australians from the following commercial contractors General Electric Infrastructure, Water and Process Technologies; and Aspen Medical Pty Ltd.*

### ***The primary decision***

On 1 December 2020, the Department notified you of the primary decision on the FOI request.

In summary, the primary decision stated that the decision maker had identified two documents relevant to the scope of the FOI request and decided to:

- grant access, in part, to Document 1, on the basis it contains information that is conditionally exempt under sections 47F (personal information) and 47G(1)(a) (business information) of the FOI Act, and its disclosure would be contrary to the public interest; and
- grant access, in part, to Document 2, on the basis it contains information that is conditionally exempt under sections 47C (deliberative processes) and 47E(d) (certain operations of an agency) of the FOI Act, and its disclosure would be contrary to the public interest.

The primary decision also found that the two documents contained irrelevant material as follows:

- material subject to the Department's redaction policy advised to you on 16 October 2020 namely:
  - any person's signature;
  - names and contact details of Australian Public Service officers not in the Senior Executive Service;

- the mobile or direct numbers of SES officers; and
- the names and contact details of Ministerial staff at a level below Chief of Staff; and
- material that is not within the scope of the FOI request, that is, material which does not constitute ‘the Department’s assessments justifying the award of The Humanitarian Overseas Service Medal to Australians from the following commercial contractors General Electric Infrastructure, Water and Process Technologies; and Aspen Medical Pty Ltd.’

The Department released to you redacted copies of the two documents with the exempt and irrelevant material deleted under section 22 of the FOI Act.

### ***The internal review request***

On 11 December 2020, you requested internal review in the following relevant terms:

*Respectfully, we would like to ask for an internal review internal review of Department of the Prime Minister and Cabinet's handling of my FOI request 'Humanitarian Overseas Service Medal: Seeking assessment justifying awards to commercial contractors'.*

*Regarding document "ref B09/1640 HOSM: Assessment of Australian contingent to GE Infrastructure for 'Indian Ocean' operation".*

*Attachment B was not disclosed and we would be grateful for a copy of that document. We understand some material may be conditionally exempt and will be happy to receive a redacted version.*

*Attachment C refers to "(s47F redacted) were hired by an international corporation to assist with the delivery of a gesture of good corporate citizenship".*

*We would like to ask for a copy of the documents related to, or identifying the international corporation.*

*A full history of my FOI request and all correspondence is available on the Internet at this address:*

*[https://www.righttoknow.org.au/request/humanitarian\\_overseas\\_service\\_me\\_2](https://www.righttoknow.org.au/request/humanitarian_overseas_service_me_2)*

On 24 December 2020, the Department wrote to you in the following relevant terms:

*We write to provide information regarding the identity of the ‘international corporation’ referred to in Attachment C to document reference B09/1640 and, in the light of that information, to seek clarification of the scope of your internal review request.*

*In relation to the identity of the ‘international corporation’ referred to in Attachment C, we understand that the international corporation is GE Infrastructure, Water & Process Technologies.*

*In light of the information about the identity of the international corporation, we seek your confirmation that the scope of your internal review request is limited to a review*

*of the Department's decision not to disclose Attachment B to document reference B09/1640 (Document 1 in the Department's decision)?*

*We can advise that the Department's decision on Attachment B was that it was not within the scope of your FOI request and therefore was redacted as irrelevant information under section 22 of the FOI Act.*

*If the scope of your internal review request is not limited to the Department's decision on Attachment B to document reference B09/1640, please provide more information about what you wish to have reviewed.*

On 27 December 2020, you responded as follows:

*Thank for for [sic] clarifying things, please disregard my earlier questions about Attachment B.*

*The remainder of this clarification regards Attachment C.  
On the attachment's 3rd page the author states: "( s47F) were hired by an international corporation to assist with the delivery of a gesture of good corporate citizenship."*

*I respectfully request access to the information conditionally withheld via the s47F exemption above.*

*I do understand that the s47F exemption is intended to protect the personal privacy of individuals, however I do not seek personal names or contact details. My understanding is that for particular information to be personal information, an individual must be identifiable or reasonably identifiable and that the FOI Act holds that an individual is a natural person and does not include a corporation, trust, body politic or incorporated association.*

### **Scope of the internal review**

Noting your response of 27 December 2020, the scope of the internal review is limited to the material exempt under section 47F of the FOI Act in the following sentence on page 3 of Attachment C to document reference B09/1640 (Document 1 in the Department's primary decision):

*[s47F] were hired by an international corporation to assist with the delivery of a gesture of good corporate citizenship.*

### **Reasons**

As stated in the primary decision, 'personal information' under the FOI Act has the same meaning as in the *Privacy Act 1988* (the **Privacy Act**) and means:

*... information or an opinion about an identified individual, or an individual who is reasonably identifiable:*

*(a) whether the information or opinion is true or not; and*

*(b) whether the information or opinion is recorded in a material form or not.*

The material that is the subject of this internal review is the name of an individual. The FOI Guidelines state that personal information can include a person's name.<sup>1</sup> I am therefore satisfied that the primary decision was correct to find that the material that is the subject of this internal review is 'personal information' within the meaning of the FOI Act and the Privacy Act.

I am persuaded that the findings and reasons given in the primary decision remain correct, and would adopt those findings and reasons as my own for the purpose of affirming that the information that is the subject of this internal review is conditionally exempt under section 47F of the FOI Act and that release would, on balance, be contrary to the public interest.

### **Review rights**

Information about your rights of review under the FOI Act is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

### **Complaint rights**

You may make a complaint to the Information Commissioner about the Department's actions in relation to this decision. Making a complaint about the way the Department has handled an FOI request is a separate process to seeking review of the Department's decision. Further information about how to make a complaint is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

Yours sincerely



Celeste Moran  
Acting First Assistant Secretary  
Government Division

11 January 2021

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<sup>1</sup> FOI Guidelines, [6.130].