



## Australian Government

### Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT  
BARTON

FOI/2020/211

Trav S

By email: [foi+request-6695-26625266@righttoknow.org.au](mailto:foi+request-6695-26625266@righttoknow.org.au)

Dear Trav S

I refer to your email of 9 September 2020 in which you made a request to the Department of the Prime Minister and Cabinet (the **Department**) under the *Freedom of Information Act 1982* (the **FOI Act**) in the following terms:

*This a request for information under the FOI Act.*

*On 14 May 2020, PM&C's Honours Department wrote to the Minister for honours policy staff stating:*

*"In 2010, PM&C was approached by AusAID to consider a request (s47F name redacted) for these contractors to be considered for the award of the Humanitarian Overseas Service Medal. The honours team assessed the information and sought input from relevant stakeholders in forming a view for recommendation to the Minister for honours policy".*

*Regarding PM&C's statement, please provide the following documents for review:*

- 1. the information the honours team assessed. Please don't include the HOSM application submitted by (s47F name redacted).*
- 2. PM&C's correspondence seeking the input from the "relevant stakeholders".*
- 3. the correspondence from the "relevant stakeholders" in which they provide their input to PM&C, and the input they provided.*
- 4. PM&C's correspondence to the commercial organisation under consideration seeking their input, and the input provided.*
- 5. PM&C's correspondence, occurring between April 2012 and 25 March 2013, to the Minister responsible for honours policy regarding their recommendations to the Minister.*

*In April 2012 PM&C informed AusAID they would deliver a document titled “amendment of humanitarian overseas service medal (Iraq) declaration 2004 to extend to specified commercial contractors” to the Parliamentary Secretary to the Prime Minister [PSPM] Senator Jan McLucas.*

*Regarding that document, please provide the following for review:*

- 6. PM&C’s correspondence to PSPM McLucas*
- 7. PSPM McLucas's correspondence regarding the document.*
- 8. PM&C’s correspondence to AusAID regarding the document.*

*On 14 May 2020, PM&C’s Honours Department wrote to the Minister for honours policy’s staff and stated:*

*“(s47F name redacted) was furnished with internal communications between AusAID and PM&C dating from 2012. Unfortunately, this communication pre-dated final input from stakeholders and the final Ministerial decision by the then responsible Minister, the Hon Josh Frydenberg MP”.*

*Regarding PM&C's statement, please provide the following documents for review:*

- 9. The correspondence providing the “final input from stakeholders”, and their input.*

### **Authorised decision-maker**

The authorised decision-maker for your request is Mr David Belgrove, Acting Assistant Secretary, Parliamentary and Government Branch.

### **Notice of intention to refuse your FOI request**

Section 24(1) of the FOI Act provides that a request to an agency may be refused if the decision maker is satisfied that a practical refusal reason (as set out in section 24AA of the FOI Act) exists in relation to the request.

Section 24AA of the FOI Act provides that for the purposes of section 24 of the FOI Act a request raises a practical refusal reason if the work involved in processing the request would substantially and unreasonably divert the resources of an agency from its other operations (section 24AA(1)(a)(i) of the FOI Act).

I write to advise you that the decision maker considers that your request raises a practical refusal reason under section 24AA(1)(a)(i) of the FOI Act. The decision maker therefore intends to refuse access to the documents requested.

However, before the decision maker makes a final decision to refuse the request for a practical refusal reason, you have an opportunity to revise your request. This is called a ‘request consultation process’ as set out under section 24AB of the FOI Act. You have 14 days to respond to this notice in one of the ways set out below.

## Reasons for intention to refuse your request

In deciding if a practical refusal reason exists, an agency must have regard to the resources required to perform the following activities specified in section 24AA(2) of the FOI Act:<sup>1</sup>

- identifying, locating or collating documents within the filing system of the agency;
- examining the documents;
- deciding whether to grant, refuse or defer access;
- consulting with other parties;
- redacting exempt material from the documents;
- making copies of documents;
- notifying an interim or final decision to the applicant.

Other matters that the decision maker finds relevant in deciding if a practical refusal reason exists include:

- the staffing resources available to an agency or minister for FOI processing;
- whether the processing work requires the specialist attention of a minister or senior officer, or can only be undertaken by one or more specialist officers in an agency who have competing responsibilities;
- the impact that processing a request may have on other work in an agency or minister's office, including FOI processing;
- whether an applicant has cooperated in framing a request to reduce the processing workload
- whether there is a significant public interest in the documents requested;
- other steps taken by an agency or minister to publish information of the kind requested by an applicant.<sup>2</sup>

The Department has undertaken preliminary searches and to date has identified over 1700 pages that would need to be manually reviewed to identify any documents meeting the terms of your FOI request. There may be additional locations that need to be searched to identify documents meeting the terms of your FOI request.

Having regard to the subject-matter of your FOI request, the above estimates concerning number of pages to be searched and pages meeting the terms of your FOI request, and the tasks required to process your FOI request, the Department estimates that processing will take at least 84 hours, based on a conservative estimate that approximately 50 per cent of the documents are within the scope of your FOI request.

Ordinary hours of work for full-time employees in the Department are 38 hours per week.<sup>3</sup> Having regard to the estimate of time to process the request, this means it would take one officer at least 2 weeks to process your FOI request.

The Department acknowledges that the processing of requests for access to documents is a legitimate part of each agency's functions, and that FOI requests may require reallocation of resources within an agency. However, the Department could not reasonably divert resources to assist in processing the request. In reaching this view, the Department has had regard to the

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<sup>1</sup> 'Guidelines issued by the Australian Information Commissioner under s 93A of the *Freedom of Information Act 1982*' (FOI Guidelines) , Part 3 – Processing and Deciding on Requests for Access (version 1.7, June 2020), [3.116].

<sup>2</sup> FOI Guidelines, [3.117].

<sup>3</sup> Department of the Prime Minister and Cabinet, *Enterprise Agreement 2017-2020*, [315].

public interest in access to information held by the Department but considers the public interest in access is outweighed by the competing public interest in the ability of the Department to undertake its ordinary functions without substantial impairment, including the processing of other FOI requests.

For the reasons given above, the decision-maker considers that processing the request in its current form would be a substantial and unreasonable diversion of the Department's resources from its other operations.

### **Request consultation process**

You now have an opportunity to revise the request to enable it to proceed. Revising the request can mean narrowing the scope of the request to make it more manageable or explaining in more detail the specific documents you wish to access. We will assess whether any revised request has removed the practical refusal reason.

You may wish to consider revising your request by, for example, withdrawing one or more parts of your FOI request.

### **No guarantee of access**

Please be aware that even if you revise the FOI request to enable it to be processed, there is still no guarantee that documents will ultimately be released. That is a matter for the decision-maker to decide in the usual manner after examining the relevant documents. The issue we are addressing at the moment is whether the FOI request can be processed – not what the eventual outcome may be if it is processed.

### **Action required**

Section 24AB of the FOI Act provides that you must do one of the following, in writing, within the next 14 days:

- revise the FOI request;
- indicate that you do not wish to revise it; or
- withdraw the FOI request.

If you do *not* do one of the above within the next 14 days, the FOI request will be taken to have been withdrawn as per subsection 24AB(7) of the FOI Act. If you were to revise the FOI request in a way that adequately addresses the above concerns and makes it manageable, the Department will recommence processing it.

### **Calculation of 30 day period**

Please note that the time taken to consult with you regarding the scope of the FOI request is not taken into account for the purposes of calculating the 30 day period during which the Department is required to take all reasonable steps to process the FOI request.

Should you wish to discuss your request, please contact the Department's FOI and Privacy Section on (02) 6271 5849, or by email to [foi@pmc.gov.au](mailto:foi@pmc.gov.au), quoting reference number FOI/2020/211.

Yours sincerely

*C. O'Connell*

A/g Senior Advisor  
FOI & Privacy Section

9 October 2020