



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2020/238

FREEDOM OF INFORMATION ACT 1982

REQUEST BY: Trav S

DECISION BY: Peter Rush
Assistant Secretary
Parliamentary and Government Branch

By email: foi+request-6793-8f7e17a4@righttoknow.org.au

Dear Trav S

I refer to your request of 12 October 2020, made 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:

In 2010 the Director-General of AusAID wrote in support of a Humanitarian Overseas Service Medal application by an Australian government contractor. The application's purpose was to test the eligibility of contractors engaged by the Australian government to assist in the reconstruction effort in Iraq. AusAID officials subsequently met with the Department responsible for honours policy to advocate.

This led to the Department producing instructions to draft an amendment of HOSM (Iraq) declaration 2004 to extend to specified commercial contractors. Drafting was done with the proposed text being promulgated for review in March 2012. The Department proposed to brief PSPM McLucas soon thereafter.

I would like to ask for a copy of the following documents under the FOI Act:

- 1. the Department's document/email informing PSPM McLucas or her staff of the proposed amendment or the related case*
- 2. the document/email recording the decision to reject the proposed amendment*
- 3. the document/email informing AusAID and the applicant that the proposed amendment was rejected.*

Authorised decision-maker

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

Decision

I have decided to refuse your request under section 24A(1)(b)(ii) of the FOI Act.

Reasons

Section 24A(1) of the FOI Act provides that:

An agency or Minister may refuse a request for access to a document if:

(a) all reasonable steps have been taken to find the document;

and

(b) the agency or Minister is satisfied that the document:

(i) is in the agency's or Minister's possession but cannot be found; or

(ii) does not exist.

The Department did not submit any advice to the then Parliamentary Secretary to the Prime Minister, the Hon Jan McLucas, or her staff regarding a proposed amendment to the *Humanitarian Overseas Service Medal (Iraq) Declaration 2004*. No decision was made regarding a proposed amendment to the *Humanitarian Overseas Service Medal (Iraq) Declaration 2004* while Ms McLucas was Parliamentary Secretary to the Prime Minister. Therefore, there was no communication informing AusAID or the applicant "that the proposed amendment was rejected" at that time.

In light of the facts detailed above, I am satisfied that no documents within the scope of your request exist in the Department's possession.

I have therefore decided to refuse your request under section 24A(1)(b)(ii) of the FOI Act.

Processing and access charges

I have decided not to impose charges in respect of your request.

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/>.

Complaint rights

You may make a complaint to the Information Commissioner about the Department's actions in relation to a request. 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/>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Rush', written in a cursive style.

Peter Rush
Assistant Secretary
Parliamentary and Government Branch

5 November 2020