



Our ref: LEX 67637

Warrick Alexander

By email: foi+request-6940-c2262a4b@righttoknow.org.au

Dear Mr Alexander

Freedom of Information Act 1982 – Notice of Decision

I refer to your correspondence, received by the Department of Industry, Science, Energy and Resources (**the department**) on 2 December 2020 for access under the *Freedom of Information Act 1982 (FOI Act)* as follows:

I would like to see a document with the date and time of each statement made by officers in the Legal, Audit and Assurance line area that expressly mentions/considers the possibility/presence of Regional Incubator Facilitator bias/conflict as:

- a) "apparent", or
- b) "apprehended".

Background

On 2 January 2020, the statutory processing timeframe in which to process your request expired. On 1 February 2021, the Office of the Australian Information Commissioner granted the department an extension under section 15AC of the FOI Act for the processing of your FOI request until 24 February 2021.

Decision

I am an authorised decision maker under section 23 of the FOI Act.

The department has undertaken extensive searches of all relevant electronic databases, files and corporate file lists for the documents you have requested, however has been unable to locate any documents falling within the scope of your request. On the basis of these searches, I am satisfied that all reasonable steps have been taken to locate the documents relevant to your request but they do not exist.

Section 17 of the FOI Act requires the department to produce a written document of information, where:

- the information is stored electronically and not in a discrete written form; and
- a document is capable of being produced by using a computer or other equipment to retrieve or collate the stored information.

The information you have requested is not electronically stored in a form that is capable of being extracted to generate a discrete document in accordance with section 17 of the FOI Act. Producing a document containing the information you seek would entail manually searching records for relevant documents that refer to an 'apparent' or 'apprehended' Regional Incubator Facilitator bias/conflict, and then manually creating a new document setting out the dates and times you have requested.

industry.gov.au

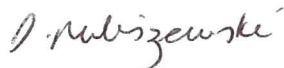
Industry House - 10 Binara Street, Canberra City, ACT 2601
GPO Box 2013 Canberra ACT 2601 ABN: 74 599 608 295

Therefore, I have decided to refuse your request in accordance with section 24A of the FOI Act on the grounds that the document you have requested do not exist.

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 at FOI@industry.gov.au if you require any further clarification.

Yours sincerely



Deborah Miliszewski
General Counsel
Legal, Audit & Assurance

// February 2021

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.

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.

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