



Our ref: L67328

Menzies

By email: via Right to Know

Dear Menzies

**Freedom of Information Act 1982 – Notice of Decision**

I refer to your request received by the Department of Industry, Science, Energy and Resources (the department) on 21 October 2020. The request sought access under the *Freedom of Information Act 1982* (FOI Act) to the following:

- A. *Completion dates of fraud risk assessments as per s 6 and s 7.6 of the Fraud and Corruption Control Plan 2018-20 (FCCP) for each division from 1 January 2016 until 1 January 2020.*
- B. *Division, program name and completion date for each fraud audit conducted as per s 14.2 of the FCCP from 1 January 2016 until 1 January 2020.*
- C. *Division, program name and completion date for each fraud detection compliance review as per s 14.4 of the FCCP from 1 January 2016 until 1 January 2020.*
- D. *Division and completion date for each ICT compliance review as per s 14.5 of the FCCP from 1 January 2016 until 1 January 2020.*
- E. *Documents/correspondence containing the reasons as to why AusIndustry (Support for Business) did not complete a single fraud risk assessment in 37 months.*
- E. *Documents/correspondence containing the reasons as to why the Department never conducted a fraud audit for the Incubator Support Initiative.*

On 20 November 2020, you were provided with a notice of the department's intention to refuse your request on practical refusal grounds. This notice failed to reach you due to issues with the Right to Know website, and you were re-provided with that notice on 23 November 2020.

The notice provided that the scope of this request was very broad, and that over 200 pages of documents would be required to be obtained and examined to identify documents falling within its scope. The notice also provided that processing the request would substantially and unreasonably divert the the resources of the department from its other operations and that it would likely be refused on practical refusal grounds if it were not refined in such a way that the practical refusal reason no longer applied.

It also provided that no documents likely fell within Item "D" or the the two Items labelled "E". You were invited to invited to revise the scope of your request so that the practical refusal reason no longer applied, including by identifying specific fraud related activities.

On 23 November 2020, you revised the scope of your request so that it no longer contained Item "D" or the the two Items labelled "E". The revised scope provided:

- A. *Completion dates of fraud risk assessments as per s 6 and s 7.6 of the Fraud and Corruption Control Plan 2018-20 (FCCP) for each division from 1 January 2016 until 1 January 2020.*
- B. *Division, program name and completion date for each fraud audit conducted as per s 14.2 of the FCCP from 1 January 2016 until 1 January 2020.*
- C. *Division, program name and completion date for each fraud detection compliance review as per s 14.4 of the FCCP from 1 January 2016 until 1 January 2020.*

I am writing to inform you of my decision in respect of this revised request.

### **Decision**

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

I have decided to refuse your request under section 24(1) of the FOI Act on practical refusal grounds. The practical refusal reason being that processing your revised request would unreasonably and substantially divert the resources of the department from its other operations.

The reasons for my decision are set out below as required by section 26 of the FOI Act.

### **Reasons for Decision**

Under subsection 24(1) of the FOI Act, if an agency is satisfied that a practical refusal reason exists in relation to a request, the agency must undertake a request consultation process in accordance with section 24AB of the FOI Act. However, if after the request consultation process the agency is satisfied that the practical refusal reason still exists, the agency may refuse the request.

As part of the request consultation process you opted to refine the scope of the request L67328 in such a way that it did not meaningfully impact the amount of work required to process it. The bulk of the work required to process the request is associated with Items A and B of the request, and their scope has not reduced as a result of the request consultation process.

Accordingly, I am satisfied that a practical refusal reason continues to exist in relation to your request and I have decided to refuse it under section 24(1) of the FOI Act.

### **Review rights**

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

Please do not hesitate to contact the FOI team on [insert contact number], or by e-mail at [FOI@industry.gov.au](mailto:FOI@industry.gov.au), if you require any further clarification.

Yours sincerely



Kristy-Lee Coker  
A/g General Counsel  
Legal, Audit and Assurance Branch

24 November 2020

**industry.gov.au**

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

**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](mailto: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](http://www.oaic.gov.au)  
Post: GPO Box 5218, Sydney NSW 2001  
Fax: +61 2 9284 9666  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

An application form is available on the website at [www.oaic.gov.au](http://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](http://www.oaic.gov.au).