



28 October 2021

Ms Davey, Eleanor

BY EMAIL: foi+request-7709-cf189fde@righttoknow.org.au

In reply please quote:

FOI Request: FA 21/08/01045

File Number: OBJ2021/25817

Dear Ms Davey,

I refer to your email dated 20 August 2021 in which you request access to documents held by the Department of Home Affairs (the Department) under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to tell you that I intend to refuse your request on the basis that a practical refusal reason exists. However, before I make a final decision to do this, you have an opportunity to revise your request to remove the practical refusal reason. This is called a '*request consultation process*'. You have 14 days to respond to this notice in one of the ways set out below.

Power to refuse request

Section 24 of the FOI Act provides that if the Department is satisfied that a practical refusal reason exists in relation to a request, the Department must undertake a consultation process with you, and if, after that consultation process, the Department remains satisfied that the practical refusal reason still exists, the Department may refuse to give you access to the documents subject to the request.

Practical refusal

A *practical refusal reason* exists if either (or both) of the following applies:

- (a) the work involved in the processing of the request would substantially and unreasonably divert the resources of the Department from its other operations
- (b) the request does not satisfy the requirement in section 15(2)(b) of the FOI Act, which requires you to provide such information concerning the document you are seeking access to, to enable the Department to be able to identify it.

Scope of Request

You have requested access to the following:

I would like to request under the Freedom of Information Act,

- *the number of times per year that Transfield has been required to investigate behaviour of individual staff members contracted to work at the Nauru Regional Processing Centre since 2012;*
- *the number of times these investigations led to a change in a staff member's duties;*
- *the number of times these investigations led to termination of a staff member's contract.*

Thank you for your assistance.

Reasons for practical refusal

We have conducted searches with the area of the Department who were responsible for contract management of the relevant contract between Transfield and the Commonwealth and are advised that this came to an end on 31 October 2017. At the completion of this contract, a very large quantity of data, containing anywhere between 10,000 and 280,000 records, was transferred to the Department in line with contractual obligations.

Transfield, as the supplier to the Commonwealth, maintained the responsibility for personnel management of its own staff. These personnel management records were not available to the Department and there was no requirement for this, with the exception of some 'key personnel'.

The Department commenced a manual search of the Transfield data for any records of key personnel that may be in scope for this request, however in 3 business days was able to locate just 6 historical incident reports. In relation to these historical incident reports, further searches would need to be undertaken of the Transfield records to identify any associated records that relate to key personnel and then the data constructed from these source documents.

The Department has made a preliminary assessment of the documents that would be captured by your request.

I am satisfied that the Department would be required to divert significant resources from its current operations in order to identify, locate and collate the documents held within the Department, and to make a decision on access to those documents. This diversion would result in a significant drain on the resources of the area within the Department that would be required to process this request.

I consider that this would result in this request imposing both a substantial and an unreasonable diversion of resources of the Department from its other operations and that a practical refusal reason exists in relation to this request.

Request Consultation Process

You now have an opportunity to revise your request to enable it to proceed.

Changes which you may consider to scope which may remove the practical refusal include limiting the timeframe of the request to a period of 6 to 12 months and limiting the scope to key personnel, or any other revision you could make that would assist us to meet your information requirements without incurring a significant diversion of resources.

Under section 24AB of the FOI Act, you have 14 days to do one of the following:

- withdraw your request;
- make a revised request;
- indicate that you do not wish to revise your request.

If you do not do one of the three things listed above during the consultation period (14 days) or you do not consult the contact person listed below during this period, your request will continue to be processed on the basis of the present scope.

Contact

Should you wish to revise your request or have any questions in relation to this process, please do not hesitate to contact the decision maker at foi@homeaffairs.gov.au.

Signed electronically

Glen

Position number 60081621

Authorised Decision Maker | Freedom of Information Section
FOI and Records Management Branch
Data Division | Strategy and National Resilience Group
Department of Home Affairs