



Concerned Citizen  
Email: [foi+request-8061-d13e2b11@righttoknow.org.au](mailto:foi+request-8061-d13e2b11@righttoknow.org.au)  
30 November 2021

Dear Concerned Citizen,

### Freedom of Information Request - FOI 233/2021

I refer to your email of 3 November 2021 seeking access under the Commonwealth *Freedom of Information Act 1982* (the FOI Act) to:

*Ministerial Brief MB20-000013: Implementation of the Apple and Google Exposure Notification Framework (ENF)*

I am an authorised decision-maker under section 23 of the FOI Act. This letter sets out my decision on your request for access.

### Timeframe for processing your request

Your request was received by the Digital Transformation Agency (DTA) on 4 December 2020. The statutory period for processing your request is 30 days. On 4 December 2020 the statutory period for processing was extended for an additional 11 days under s 15AA of FOI Act.

### Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from departmental officers with responsibility for matters relating to the documents to which you sought access.

### Decision

Following agency searches, I have identified one document relevant to your request. I have decided to provide partial access to this document with some material removed under s47E(d).

### Reasons for My Decision

#### ***FREEDOM OF INFORMATION ACT 1982 - SECT 47E***

#### **Public interest conditional exemptions--certain operations of agencies**

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;

- b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;
- d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The information which has been removed from the documents under this section contains confidential information on the negotiation position and intentions for the procurement of goods and services by the DTA. To reveal this information would adversely affect the ability of the DTA to enter into commercial arrangements as it would reveal opinions and other information which would be of advantage to potential vendors, and put the Commonwealth and competitors at a disadvantage.

In addition, I have considered the mobile telephone numbers of the officers who are listed as contacts in these briefs and found them to be conditionally exempt. When considering the release of any information under the FOI Act we need to consider that the information is released to everyone. In the case of a mobile telephone number it is not the policy of the DTA to provide these to members of the public under any circumstances. If a member of the public wished to contact either of these Senior Executive officers they could use the desk phone and email addresses published on the Government Directory, but to have their mobile telephone numbers in the public domain would have a substantial adverse effect on the efficient operations of the DTA if members of the public were to contact these officers using these unpublished numbers.

I find that parts of this document are conditionally exempt under s 47E(d) of the FOI Act.

#### *Public Interest Test*

Having formed the view that the information is of a kind to which section 47E(d) does apply, I am required to consider whether disclosure of the information would be contrary to the public interest, I have considered:

Public Interest Arguments in favour of release:

- Applicants exercising their rights under the FOI Act
- Inform debate on a matter of public importance
- Scrutiny on the expenditure of public money

Public Interest Arguments against release:

- could reasonably be expected to prejudice an agency's ability to obtain confidential information
- could reasonably be expected to prejudice the competitive commercial activities of an agency
- could reasonably be expected to prejudice the management function of an agency

While the document in question are on the subject of a highly topical area of public interest the parts which are conditionally exempt would have a severe impact on the ability of the DTA to conduct negotiations and procurement of goods and services in a way that is fair to the Commonwealth and third parties. This would have the effect of revealing negotiating positions and confidential assessment of a suppliers products.

The desk phone and emails of Senior Executives in the DTA are already available online for members of the public to use if they wish to contact. To include mobile phone numbers in the release would not significantly advance the public interest in transparency and scrutiny on public administration, but would have a significant prejudice for the management function of the agency if members of the public were to use this information to contact them.

On balance the arguments against release outweigh the arguments in favour of release.

### **Review rights**

If you disagree with my decision, you can request an internal review made by the DTA or an external review conducted by the Office of the Australian Information Commissioner.

If you wish to seek an internal review of the decision, you must apply for the review in writing within 30 days of receiving this notice

An internal review will be conducted by a different officer from the original decision-maker. No particular form is required to apply for review although it is helpful to set out the aspects of the decision you disagree with and any reasons.

Alternatively, you can seek review of this decision by the Australian Information Commissioner without first going to internal review. Your application must be made within 60 days of you receiving this notice via their website.

If you are dissatisfied with the way the DTA have handled your FOI request, you can make a complaint to the Office of the Australian Information Commissioner (OAIC). The OAIC encourages complaints to be made directly to the agency first so if you have any concerns please consider raising these with our agency in the first instance.

More information about FOI reviews and complaints is available on the Office of Australian Information Commissioner's website at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>

### **Contacts**

If you have any queries about this notice, please contact the FOI team by email [foi@dta.gov.au](mailto:foi@dta.gov.au).

Yours sincerely

Anthony Warnock  
Government Technology