



Department of Health

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Our ref: F22/1221

Mr Lee Gannon

Sent via email to: foi+request-9118-50fdf2f9@righttoknow.org.au

Dear Mr Gannon

NOTICE OF DECISION FREEDOM OF INFORMATION REQUEST

I refer to your application made pursuant to the *Freedom of Information Act 1982* (the Act) cited below and clarified in writing on 9 August 2022:

- 1. Please provide email correspondence between Michael Kapel, Department of Health to Monash Health relating to VG70 ventilators, and purchase order 89893 between 20 March 2020 - 30 April 2020.*
- 2. Provide the TGA certificate for the purchase of VG70 ventilators relating to purchase order 89893.*
- 3. Provide all email correspondence between the Department of Health procurement relating to AEONMED Ventilators between 20-25 March 2020.*
- 4. Provide the records of dealership support information, history of trade with AEONMED or with AEONMED products, certificates, relating to purchase order 89893 or VG70 Units between 20-25 March 2020.'*

I apologise for the delay in finalising your request and thank you for your patience.

Freedom of Information Act 1982 (Vic)

The Act establishes a general right of access to documents held by the department. To protect essential public interests and the private and business affairs of individuals, the right of access does not apply to a document identified in the Act as exempt. A fact sheet is enclosed which briefly describes the available exemptions.

If a document contains exempt material the Act allows for an edited copy to be released after the exempt matter has been deleted and where it is practicable to do so.

Documents

On the basis of your request, the relevant division conducted a thorough and diligent search and located the documents that are relevant to your request. The division provided 40 pages of documents including email correspondence and their attachments.

In relation to point two of your request, you may wish to make enquiries with the Therapeutic Goods Administration (TGA) in relation to the TGA certificate. The Department of Health is not responsible for this certification. You can find out more information about the TGA here:

<https://www.tga.gov.au/>.

In relation to point four of your request, the technical specifications of the AEONMED VG70 unit and the EC certification are publicly available. Please see the below links:

- https://procurement-notices.undp.org/view_file.cfm?doc_id=211883
- <https://jetmasters.co.uk/wp-content/uploads/2020/04/Beijing-Aeonmed-VG70-CE-Certificate.pdf>

Decision

I assessed the document in accordance with the Act and have decided to grant access in part to the documents.

Material withheld from you has been removed on the basis of the following sections under the Act:

Internal working documents

Section 30(1) exempts from disclosure documents that are internal working documents. For this section to apply, the documents must:

- disclose an opinion, advice or recommendation prepared by an officer, or relate to a consultation or deliberation that has taken place between officers and/or a Minister, in the course of, or for the purpose of, deliberative processes involved in the functions of an agency; and
- release must be contrary to the public interest.

This section has been used to exempt email correspondence, as they contain preliminary advice, opinions and recommendations intended for deliberative processes only. It is considered that the release of the material would be contrary to the public interest as the relationship between recommendations and final actions taken remains an ongoing process and as a result the release of the material could lead to ill-informed debate among the public.

Personal affairs information

Section 33(1) exempts from disclosure any document (or any part thereof) that would unreasonably disclose information relating to the personal affairs of another person (including a deceased person).

For this exemption to apply to a document, two parts must be satisfied:

- the information contained in the document must relate to the personal affairs of a person; and
- the release of the information would be an unreasonable disclosure.

Section 33(9) defines 'information relating to the personal affairs of any person' to include information that identifies any person or discloses their address or location, or information from which any person's identity, address or location can reasonably be determined.

This section has been used to remove names and contact details of departmental employees and third parties, as well as information from which their identities could be ascertained.

Business, commercial or financial information of the department

Section 34(4)(a)(ii) provides that a document is exempt if its release would disclose information that relates to matters (other than trade secrets) of a business, commercial or financial nature of an agency and the disclosure would be likely to expose the agency unreasonably to disadvantage.

Business, commercial and financial material relating to the department's expenditure and ongoing contract management processes has been removed using this section on the basis that the release of this material would expose the department to unreasonable disadvantage in its business dealings, especially in the context of affecting the Department's ability to purchase competitively in this procurement stream in future.

It would also undermine the integrity of the tender process for the provision of work to third parties by the Department and reveal commercial in confidence provisions of a government contract should the information be released to the public.

Exempt or irrelevant material

Section 25 allows the removal of material that would disclose information that would reasonably be regarded as irrelevant to the request.

This section has been applied to information which does not meet the terms of the request.

Charges

Please note that access charges have been waived in this instance.

Review and Complaint rights

If you are not satisfied with my decision you have the right to apply to the Office of the Victorian Information Commissioner for review. This request needs to be made in writing within 28 days of the date you receive this notice of decision.

You can also complain to the Commissioner if you are dissatisfied with the way in which the request has been managed or in situations where documents do not exist or cannot be located.

The enclosed fact sheets contain more information about these processes.

Yours sincerely



Michael Ghobrial

A/Manager, Freedom of Information

04 / 10 / 2022

Enc.

1. Fact Sheet – Exemptions
2. Fact Sheet – Office of the Victorian Information Commissioner – Reviews
3. Fact Sheet – Office of the Victorian Information Commissioner – Complaints
4. Released documents