



Australian Government
Department of Defence

FOI 412/17/18 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] under the *Freedom of Information Act 1982* (FOI Act), for access to:

“Copy of the contract in relation to the new Defence Export Advocate.”

FOI decision maker

2. I am the accredited officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

3. I identified 1 document as matching the description of the request.

4. The decision in relation to this document is detailed in this letter.

Decision

5. I have decided to:

- a. partially release 1 document in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is considered exempt under section 47F [public interest conditional exemptions-personal privacy] and/or 47G [public interest conditional exemptions – business] of the FOI Act.

Material taken into account

6. In making my decision, I had regard to:

- a. the terms of the request;
- b. the content of the identified documents in issue;
- c. relevant provisions in the FOI Act;
- d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines); and
- e. consultation with third parties whose information is contained in the documents.

Reasons for decision

Section 47F - Personal privacy

7. Section 47F protects personal privacy by providing that a document is conditionally exempt if its release would involve the unreasonable disclosure of personal information of any person (including a deceased person).

8. The documents identified for release contained the names, direct contact details, personal signatures and business information of individuals.

9. In accordance with subsection 47F (2) of the FOI Act, in determining whether disclosure of this information would involve the unreasonable disclosure of personal information I took into account:

- a. *the extent to which the information is well known;*
- b. *whether the people to whom the information relates are known to be (or to have been) associated with the matters dealt with in the documents;*
- c. *the availability of the information from publicly accessible sources; and*
- d. *that these are the same matters that must be taken into account for the purpose of consulting an affected third party under section 27A(2) of the Act.*

10. Against these criteria, I found that:

- a. the name, direct contact details, personal signatures and details of business interests contained in the document are not well known; and
- b. the specific information is not readily available from publicly accessible sources, including the websites of the organisations.

11. I therefore decided that the information satisfied the criteria for conditional exemption under section 47F of the FOI Act as the disclosure of such information would be considered unreasonable.

12. In making his decision, I also noted that the personal information included in the document captured by the scope of this request were made in confidence at the time of their lodgement, and were given under the understanding that these details would not be disclosed.

Section 47G – business

13. Upon examination of the documents, I identified business information of a third party.

Under section 47G of the FOI Act, a document is conditionally exempt if it discloses information:

‘concerning a person in respect of his or her business or professional affairs, or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:

(a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs.

14. As above, I note that the use of the word ‘could’ in this provision requires no more than a degree of reasonableness to be applied in deciding whether disclosure would cause the consequences specified.

15. The operation of the business information exemption depends on the effect of disclosure rather than the precise nature of the information itself. I am satisfied that the effect of disclosing the identified material could have an adverse effect on an individual as disclosure of this information could negatively affect Mr Johnston’s business interests.

16. In light of the above, I have decided that the specified material identified is conditionally exempt pursuant to section 47G of the FOI Act.

Sections 47F and 47G - Public interest considerations

17. In assessing whether disclosure of the conditionally exempt material is, on balance contrary to the public interest, I considered the guidelines together with a range of factors that favour access to the material, as set out on section 11B(3) of the FOI Act.

18. While disclosure may promote some of the objects of the FOI Act, in that consideration has been given to release. I do not consider it would increase public participation in government processes, nor would it increase scrutiny or discussion of government activities.

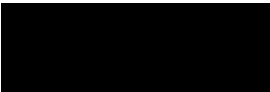
19. In addition there is a strong public interest in not releasing information that would unreasonably affect a business or individual. I took into account the nature of the material and found that its disclosure in this instance would not significantly promote the objects of the Act, or inform debate on a matter of public importance. However, disclosure has the potential to cause harm to the individual as it is commercially sensitive, is not already in the public domain, and disclosure would cause unreasonable detriment to Mr Johnston's business interests following disclosure as he may be bidding for other work and this information would prejudice his ability to price accordingly.

20. None of the factors listed in section 11B(4) of the FOI Act were taken into account when making this decision.

21. On balance, I have found that it would be contrary to the public interest to release this information and have decided to exempt the material under sections 47F and 47G of the FOI Act.

Third party consultation

22. I decided to consult with third parties regarding their information which was contained in the documents and, following this consultation I have decided not to release their information. The department is required to advise the third parties of my decision. Documents will be provided when all review rights have been exercised.



Damien Clifley
Accredited Decision Maker
Strategic Policy and Intelligence Group

7 June 2018

