



OFFICIAL

Freedom of Information (FOI) request

Notice of Decision

Reference: FOI/2024/231IR

To: Trav S

foi+request-11732-505ce6ba@righttoknow.org.au

Dear Trav S,

I refer to your email of 21 August 2024, seeking an internal review under the *Freedom of Information Act 1982* (the FOI Act), of the decision made on 21 August 2024 (the Primary Decision) by a delegate of the Department of the Prime Minister and Cabinet (the Department).

You set out your request for internal review, as follows:

Dear PMC, Please provide an internal review of Department of the Prime Minister and Cabinet's handling of my FOI request 'Number of HOSMs awarded to GE Contingent for Humanitarian service in Banda Aceh'.

I submit the Department understands the HOSM was awarded to commercial security contractors serving with the GE contingent in Banda Aceh.

The public servant responsible for administering the HOSM program, Mr Peter Rush, was informed of this fact well over a decade ago. Documents obtained via FOI clearly demonstrate the public servant concealed these matters from his superiors in the Department and from several Ministers and their staff. Such acts undermine the integrity of the HOSM program.

I submit the Department understands the requested material is relevant to external reviews currently underway by the Information Commissioner. The material corroborates other FOI documents that reveal serious maladministration of the HOSM program. The material will help settle disputed facts and assist the IC accurately weigh the public interest factors in those cases.

The material will inform ongoing discussions with Members of Parliament and will be provided as evidence to other Commonwealth agencies with the appropriate jurisdiction to inquire into these matters.

I submit the Department could produce and release the requested document in accordance with the provisions prescribed by section 17 (1) of the Act. In particular:(c) the agency could produce a

written document containing the information in discrete form by the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information

I submit compliance with my request for documents will not substantially and unreasonably divert the resources of the agency from its other operations.

Kind regards

Trav SA full history of my FOI request and all correspondence is available on the Internet at this address: https://www.righttoknow.org.au/request/number_of_hosms_awarded_to_ge_co

Authorised decision-maker

Under section 54(2) of the FOI Act, an applicant is entitled to apply for a review of a decision refusing to give access to a document in accordance with a request. Section 54C(2) of the FOI Act provides that an agency must arrange for a person (other than the person who made the original decision) to undertake a review of that decision.

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Internal review decision

I have decided to affirm the primary decision to refuse access to the requested document under section 24A(1) of the FOI Act on the grounds that the requested document does not exist.

The reasons for my decision on internal review is set out below.

Background

On 22 July 2024, you made the below request under the FOI Act:

Please provide a document recording the number of Humanitarian Overseas Service Medals awarded to the General Electric contingent to Bandah Aceh. Public interest factors favouring access to inform debate on a matter of public importance include to:

"allow or assist inquiry into possible deficiencies in the conduct or administration or an agency or official"

Disclosing the requested document is in the public interest and is necessary for Commonwealth agencies external to the PM&C to audit the quality of the Department's advice.

You have requested an internal review of the Primary Decision. The Primary Decision for your request was to refuse access under section 24A(1) of the FOI Act on the grounds that the requested document does not exist.

Reasons for Internal Review decision

In reaching my decision, I have had regard to:

- the terms of your request of 22 July 2024,
- the Primary Decision of 21 August 2024,
- your request for internal review of 21 August 2024,
- the FOI Act, and
- the 'Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act' (the FOI Guidelines).

Section 24A(1) – Documents cannot be found, do not exist or have not been received

As outlined in the Primary Decision, section 24A(1) of the FOI Act provides that an agency may refuse access to a document if all reasonable steps have been taken to find a document, and the agency is satisfied that documents do not exist.

The FOI Guidelines note that 'reasonable' is not designed to be constructed so as to go beyond the limit assigned by reason, not to be extravagant or excessive, rather to be moderate and of such an effort as is judged to be appropriate or suitable to the circumstances.

You make reference to section 17(1) of the FOI Act, where it requires an agency to produce a written document containing the information in discrete form by the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information.

The Department undertook searches of records and IT systems, and no information or documents falling in the scope of your FOI request were identified. I am satisfied that the Department does not hold the information you seek, either in an existing discrete document form, or in a computer system ordinarily available for the production of such information.

The Department reiterates that the process of deciding and awarding these medals is undertaken by the Governor-General.

In light of the above, I am satisfied documents do not exist, that reasonable searches have been undertaken, and I thus refuse access on grounds section 24A applies.

Additional information – Process of awarding Humanitarian Overseas Service Medals

The Governor-General approves the awarding of the HOSM and the relevant clasp (upon the recommendation of the Secretary of the Department, or their delegate). As such, the Register of Awards is held and maintained by the Office of the Official Secretary to the Governor-General (OOSGG). Publications relating to the HOSM, including declarations made under the HOSM Regulations are available on the Governor-General's [website](#).

Review rights

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days after the date of this letter.

More information about Information Commissioner reviews are available [here](#).

FOI Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the Information Commissioner must be made in writing.

More information about complaints is available [here](#).

If you wish to discuss any aspect of your request, you can contact the FOI Section by email at foi@pmc.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Walter', with a long horizontal flourish underneath.

Andrew Walter
First Assistant Secretary
Government Division
Department of the Prime Minister and Cabinet

20 September 2024