



**DEFENCE FOI 143/24/25**

**STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982**

1. I refer to the request by James Smith (the applicant), dated and received on 15 August 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act or the Act):

Item 1: *Please provide a list of all documents comprising Defence Force Recruiting - Recruiting Services Contract between Department of Defence and Adecco Australia Pty Ltd (ABN 91 006 253 336) contract ID CN3923195 Agency Reference ID:4600042630 dated around October or November 2022, including all and any annexures, appendices, attachments and the like.*

*I understand there are in the order of 57 documents with the scope of the above.*

*Please tabulate:*

*Document type*

*Author*

*Subject matter*

*Title*

*Date*

*Number of pages*

*Page span of overall Contract*

*Annexure, attachment or addendum number (or similar) (if applicable)*

Item 2: *Please also provide the table of contents or index (or both) to the Contract.*

**FOI decision maker**

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

**Document identified**

3. I have identified one document falling within the scope of Item 2 of the request.

**Decision**

4. I have decided to:
  - a. refuse access to Item 1 of the request under section 24A [requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act; and
  - b. release the document identified as falling within Item 2 of the request in full.

### Material taken into account

5. In making my decision, I have had regard to:
  - a. the terms of the request;
  - b. the content of the identified document in issue;
  - c. relevant provisions of the FOI Act; and
  - d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

### REASONS FOR DECISION


#### Section 24A – Requests may be refused if documents cannot be found, do not exist or have not been received

6. Section 24A(1) of the FOI Act states:
  - (1) *An agency or Minister may refuse a request for access to a document if:*
    - (a) *all reasonable steps have been taken to find the document; and*
    - (b) *the agency or Minister is satisfied that the document:*
      - (i) *is in the agency's or Minister's possession but cannot be found; or*
      - (ii) *does not exist.*
7. Paragraph 3.94 of the Guidelines advises the detail this statement of reasons should include to refuse a request under section 24A(1):
 

*...the statement of reasons given to the applicant should sufficiently identify the document, explain why it cannot be found or is known not to exist or to be in the agency's possession, describe the steps the agency took to search for the document, and note the limitations of any search...*
8. Paragraph 3.208 of the Guidelines states that the FOI Act gives a legally enforceable right of access to documents that already exist, and an agency is not required to create a new document to satisfy an FOI request.
9. To ensure that all reasonable steps have been taken to locate documents matching Item 1 of the request, detailed searches were undertaken of Military Personnel Division in the Defence Records Management System, *Objective*, for a 'list' containing a variety of keywords that could reasonably be expected to return pertinent documents. The returns did not include records matching the applicant's scope.
10. I am satisfied that all reasonable steps have been taken to locate the document sought by the applicant. I am satisfied that the document does not exist, and refuse Item 1 of the request under section 24A(1) of the FOI Act.

11. With respect to Item 2, the Applicant should note that the table of contents format is consistent with the publicly available Commonwealth Contracting Suite of templates for the procurement of services.

**David  
GWYTHER**

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GWYTHER  
Date: 2024.09.16 15:25:39  
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**David Gwyther**

Commodore, RAN  
Accredited Decision Maker  
Defence People Group  
Department of Defence