



**Australian Government**  
**Department of Foreign Affairs and Trade**

FOI Reference: LEX 11683  
File Reference: 24/38431

November 2024

Oliver Smith  
By email: [foi+request-12206-d8fc3565@righttoknow.org.au](mailto:foi+request-12206-d8fc3565@righttoknow.org.au)

Dear Mr Smith

***Re: Freedom of Information Request***

I refer to your request to the Department of Foreign Affairs and Trade (the department) on 23 October 2024 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

*'..... any correspondence sent to any Australian embassy or consulate in relation to celebrating, commemorating or marking Australia Day 2025, including guides to events, sent since 27 January 2024.'*

***Decision***

I have identified documents relevant to your request. After careful consideration, I have decided to grant you access to an edited copy of the documents, with irrelevant and exempt material removed.

***Reasons***

I am an officer authorised under section 23 of the FOI Act to make decisions in relation to FOI requests.

In making my decision I have taken into account:

- your request;
- the documents within the scope of your request;
- the FOI Act; and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).

The reasons for my decision and for the application of exemptions under the FOI Act to the document are set out below.

Where I refer to sections of the FOI Act, these are available at [www.legislation.gov.au](http://www.legislation.gov.au).  
Where I refer to parts of the FOI Guidelines, these are available at

[www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines](http://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines).

**Substantial adverse effect on an agency's proper and efficient conduct of operations (section 47E(d) of the FOI Act)**

Under section 47E(d) of the FOI Act, a document is conditionally exempt if disclosure would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of an agency's operations. A substantial adverse effect may be indirect (FOI Guidelines, paragraph 6.82).

The predicted effect must bear on the department's 'proper and efficient' operations, that is, the department is undertaking its operations in an expected manner (FOI Guidelines, paragraph 6.115).

Australia's diplomatic functions and events are designed to showcase Australia in a manner that promotes our national interest. At times these events involve the engagement and procurement of Australian artistic and cultural services. Some of the material identified as within scope of your request include the names of certain Australian artists and performers whose services the department and some of its overseas posts have procured in the past. It also provides opinions and recommendations about these and other artists.

Disclosing the department's recommendations and opinions about these artists, and the fact certain artists have or have not been engaged in the past, could prejudice the department's potential engagement of these artists and others in the future, which would undermine the department's ability to organise future diplomatic events.

As section 47E(d) of the FOI Act is a conditional exemption, I must grant you access to this material unless providing access would, on balance, be contrary to the public interest (section 11A(5) of the FOI Act).

In assessing the public interest, I have considered the FOI Guidelines referred to above and the public interest factors listed in section 11B of the FOI Act as favouring access, including whether granting access to the documents would promote effective oversight of public expenditure and inform debate on a matter of public importance.

None of this material pertains to the department's expenditure of public money or to matters that would inform debates of public importance.

On balance, I am of the view that the public interest is weighted against the disclosure of this material. In forming this view, I have not taken into account any of the irrelevant factors specified in section 11B(4) of the FOI Act.

I am therefore satisfied that the relevant material is exempt under section 47E(d) of the FOI Act.

***Documents subject to deliberative processes (section 47C of the FOI Act)***

Under section 47C(1) of the FOI Act, a document is conditionally exempt if it contains deliberative matter. Deliberative matter is material that is in the nature of, or relates to (a) an opinion, advice or recommendation that has been obtained, prepared or recorded, or (b) a consultation or deliberation that has taken place, in the course of, or for the purposes of, a deliberative process of the government, an agency or minister (section 47C(1) of the FOI Act).

Certain material within the scope of your request includes material in the nature of opinions and recommendations in relation to the department's public and cultural diplomacy for which no decisions by the government have been taken. That is, the opinions and recommendations are deliberative exercises about possible future decisions which may or may not have been taken.

I am also satisfied that the material in question is not operational information (as defined by section 8A of the FOI Act) or purely factual material (section 47C of the FOI Act) and to the extent that the conditional exemption material might be considered factual, it is inextricably intertwined with the deliberative material and cannot be practically excised.

As section 47C(1) of the FOI Act is a conditional exemption, I must grant you access to this material unless providing access would, on balance, be contrary to the public interest (section 11A(5) of the FOI Act).

In assessing the public interest, I have considered the FOI Guidelines referred to above and the public interest factors listed in section 11B of the FOI Act as favouring access, including whether granting access to the documents would promote effective oversight of public expenditure and inform debate on a matter of public importance.

Once again, none of this material pertains to the department's expenditure of public money or to matters that would inform debates of public importance.

On balance, I am of the view that the public interest is weighted against the disclosure of this material. In forming this view, I have not taken into account any of the irrelevant factors specified in section 11B(4) of the FOI Act.

I am therefore satisfied that the relevant material is exempt under section 47C(1) of the FOI Act.

***Irrelevant and excluded material (section 22(1)(a)(ii) of the FOI Act)***

Some of the material excluded from the documents released to you is outside the scope or could reasonably be regarded as irrelevant to your request (section 22(1)(a)(ii) of the FOI Act).

In determining what is relevant to your request, I have taken into account the terms of your request and the email which the department sent you on 25 October 2024, in which you

were invited to respond if you required the personal information of junior staff from ministerial offices and government officials not in the Senior Executive Service (SES) or equivalent, including their email addresses and contact numbers, together with all signatures, mobile phone numbers, departmental inboxes and technical transmission details including reference numbers. As you have not stated that you require this information, I have decided to remove it from the documents being released to you.

***Review rights***

Information about your review rights is set out in the **Attachment** for your reference.

***Contact***

Should you have any queries regarding this matter please contact the Freedom of Information Section by email ([foi@dfat.gov.au](mailto:foi@dfat.gov.au)).

Yours sincerely

Emil Stojanovski  
Assistant Secretary  
Department of Foreign Affairs and Trade

## ***Your review rights***

### *Internal review*

You may apply for internal review of the decision ([section 54 of the FOI Act](#)). The internal review application must be made within 30 calendar days from the day you receive this notice.

Where possible, please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Any request for internal review should be directed via email to [foi@dfat.gov.au](mailto:foi@dfat.gov.au) or addressed to:

Freedom of Information Section  
Department of Foreign Affairs and Trade  
R G Casey Building  
John McEwen Crescent  
Barton ACT 0221  
Australia

### *Australian Information Commissioner*

You may apply to the Australian Information Commissioner to review my decision ([section 54L of the FOI Act](#)). To do this, you must contact the Australian Information Commissioner within 60 calendar days from the day you receive this notice.

You may also make a complaint to the Australian Information Commissioner about the Department's actions in relation to this decision ([section 70 of the FOI Act](#)). Making such a complaint about the way the Department has handled your FOI request is a separate process to seeking review of my decision.

Further information on applying for an Australian Information Commissioner review is available at: [www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews](http://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews).

Further information about how to make a complaint is available at: [www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints](http://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints).

### *Third party review rights*

Further information about third party review rights are available on the Office of the Australian Information Commissioner's (OAIC) website at [www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/freedom-of-information-reviews/personal-and-business-information-third-party-review-rights](http://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/freedom-of-information-reviews/personal-and-business-information-third-party-review-rights).