



**Australian Government**  
**Department of Defence**

Reference: [R31540579]

**FOI 010/17/18 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:

*“...All documents relating to any instance where the Department paid for meals, accommodation or travel/transportation for the Acting Secretary or the Associate Secretary in the 2016/17 financial year.*

*Excluding personal email addresses, signatures, PMKeys numbers and mobile telephone numbers, contained in documents that fall within the scope of the FOI request...”*

**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 473 pages of documents matching the description of the request.

**Decision**

4. I have decided to:
- a. partially release the documents 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 47G [public interest conditional exemptions-business] of the FOI Act; and
  - b. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(b)(ii) of the FOI Act.

**Material taken into account**

5. 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. responses from third party consultation.

## Reasons for decision

### Section 47G – business

6. Upon examination of the documents, I identified business information of a third party.
7. 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.*

8. 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.
9. 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 the mentioned companies as disclosure of their pricing breakdowns and unique reference codes could diminish the competitive nature of the businesses and affect their profitability of business operations.
10. In light of the above, I have decided that the specified material identified is conditionally exempt pursuant to section 47G of the FOI Act.

### Public interest considerations – section 47G

11. Section 11A(5) provides that if a document is conditionally exempt, it must be disclosed “*unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest*”.
12. 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 a document set out in section 11B(3) [public interest exemptions – factors favouring access] of the FOI Act.
13. Disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource. However, there is a strong public interest in not releasing information that would unreasonably affect a business.
14. 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 businesses and risk Defence’s commercial relationship with service providers.

15. Accordingly, I consider that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the exempt material contained in the document. Therefore, I have decided that it would be contrary to the public interest to release the information considered exempt under section 47G of the FOI Act.

16. None of the factors listed in section 11B(4) [irrelevant factors] were taken into account when making my decision.

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Nicola Viney  
Accredited Decision Maker  
Associate Secretary Group