



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

**FOI 074/16/17 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

*“...the NSN 4020/002460688.*

*The Closed ATM View – RFQ-G9334*

*Publish Date: 14-Mar-2007.”*

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

**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 three documents as matching the description of the request.
4. The decision in relation to each document is detailed in a schedule of documents.
5. I have added an FOI reference number and Item/Serial number to each of the documents, which corresponds with the schedule.

**Decision**

6. I have decided to:
  - a. release two documents in full;
  - b. partially release one document in accordance with section 22(1)(a)(ii) [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 [Documents affecting a person in respect of his or her business or professional affairs] of the FOI Act; and
  - c. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act.

### **Material taken into account**

7. 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; 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 47G - Business Affairs**

8. Upon examination of the documents, I identified information, specifically quoted amounts and related information from a number of businesses.

9. Section 47G of the FOI Act states;

*A document is conditionally exempt if its disclosure under this Act would disclose 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...*

10. I note that the use of the word 'could' in this provision requires no more than a degree of reasonableness being applied in deciding whether disclosure would cause the consequences specified.

11. I am satisfied that the expected effect of disclosing material identified as exempt under section 47G could have an adverse effect on the businesses as disclosure of the quoted amounts and related information could diminish the competitive nature and could affect the profitability of each businesses operation by releasing information on how the quotations were determined. It would show their competitors how the businesses assign costs, allowing other businesses to potentially use this information in their own negotiations.

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

## Section 47G - Public interest considerations

13. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act. The relevant factors being that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource and release of this information may increase scrutiny or discussion of Defence activities (section 3(2)(b) of the FOI Act). It would also promote effective oversight of public expenditure.

14. Paragraph 6.29 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors I found particularly relevant to this request are that release of this information could reasonably be expected to prejudice the agency's ability to obtain similar information in the future and harm the interests of a group of individuals, in this case the businesses that provided quotations.

15. As outlined in paragraph 11 above, releasing business information is likely to harm their commercial interests, which in turn is likely to make businesses more reluctant to provide the information to Defence for future Approaches To Market (ATM). It will therefore be more difficult for Defence to evaluate the proposed resources being assigned to a project and compare the ATM options to achieve the best value for money for the Commonwealth.

16. I do not believe that the removal of the business names, quotation amounts and related information significantly detracts from the value of the document being sought by the applicant.

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

**MarkWorrall**  
Digitally signed by MarkWorrall  
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Mark Worrall  
Accredited Decision Maker  
Capability Acquisition and Sustainment Group

04 October 2016

**FREEDOM OF INFORMATION REQUEST NO. 074/15/16**

<b>Item</b>	<b>Date</b>	<b>Document title</b>	<b>Number of pages</b>	<b>Document description</b>	<b>Decision under the Act</b>	<b>Reason for decision</b>
1	13/03/07	Request for Quotation for Goods and Services	2	Request for Quotation for Goods and Services	Full access	Deletion made in accordance with section 22 of the FOI Act.
2	21/04/07	Comparative Statement of Quotations	1	Comparative Statement of Quotations	Partial access	Deletion made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt, under section 47G [Business conditional exemption] of the FOI Act
3	15/05/07	AusTender Contracts Reported	1	AusTender Contracts Reported	Full Access	