



FOI 153/18/19 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:

“A copy of the Base Service Contracts, CN3400076 and CN3400074 (its associated annexures/schedules understanding that some commercially sensitive information may be redacted) for Project Delivery Services between Augility (JLL) and the Commonwealth of Australia;

A copy of the Base Service Contract, CN3510586 (its associated annexures/schedules understanding that some commercially sensitive information may be redacted) for Project Delivery Services between Aurecon Services and the Commonwealth of Australia; and

a list of all the projects/work requests issued under these contracts”

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, and documents sent to and from you. Furthermore, Defence only considers final versions of documents.

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.

Documents identified

3. I identified 31 documents as matching the description of the request.

4. I have added an FOI Reference Number and Item/Serial number to each of the documents, which corresponds with the schedule.

Decision

5. I have decided to release 31 documents in full.

Material taken into account

6. 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

Factors in favour of disclosure

9. There are a number of factors that favour disclosure, including greater transparency for the expenditure of Commonwealth funds. In support of that, I note that the contracts are the result of a public tender process that was conducted in 2012-2014, during which time the draft contracts were made available to interested parties.

10. Upon examination of the documents, I identified information that would have a commercial value that would be reasonably diminished if disclosed, namely the costing information provided in the contract documentation. This information covers more than the information that has been made public via the normal tendering processes and would have disclosed material deemed commercially sensitive by its owners.

Factors acting against disclosure

11. In considering the nature of this information, and its commercial sensitivity, I was also mindful of the need to protect the commercial information of the contractors. While I considered disclosing the information, I was mindful that the final documents would be made public via the departmental web-site, which would also expose their commercial information to others beyond the applicant. One issue to consider was the impact to Defence's reputation and future commercial dealings if this information was disclosed, with a possible impact being the reluctance of industry to engage and share commercially sensitive information if the prospect of disclosure was realised.

Decision

12. I note that the applicant is aware that "...some commercially sensitive information may be redacted". The contract is structured in such a way that the commercially sensitive information is almost entirely limited to Schedule 3. In the interests of meeting the intent of the applicant's request, I have not included any documents in Schedule 3. This meets the applicant's intent as well as protect the commercial data of the contractors.

Further Information

13. The applicant has also requested "...a list of all the projects / work requests issued under these contracts". For clarification, it should be noted that no projects or work requests are issued under these contracts. The contracts for Project Delivery Services are between the Commonwealth of Australia and the relevant PDS provider. Any projects or work requests arising as a result of the work of the PDS provider are then delivered under a separate contract between the Commonwealth of Australia and the provider of the works. All of these contracts are reported through AusTender and are available for the applicant to download and view.

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Marcus Smith
 Accredited Decision Maker
 Estate and Infrastructure Group