



FOI 315/16/17 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:

"A decision brief signed by the Chief Technology Officer in May 2016 approving the start of negotiations regarding the purchase and licensing of Holocentric software. This brief is referred to at paragraph 7. of p.2 of the Section 23 Approval to enter into a 3 year software licence and support contract with Holocentric PTY LTD for 20,000 business management system annual subscription licences dated 22 June 2016

Excludes personal email addresses, signatures, personnel (PMKeyS) numbers and mobile telephone numbers."

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.

Information identified

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

Decision

4. I have decided to:
- a. release one document in full;
 - b. partially release one document 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
 - c. 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. advice received from a third party.

Reasons for decision

Section 47G – Business Affairs

5. Upon examination of the documents, I identified information, specifically licensing options.

6. Section 47G of the FOI Act state;

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 reasonable be expected to, unreasonably affect that person adversely in respect of his or her lawful business, commercial or financial affairs...

7. 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.

8. I am satisfied that the expected effect of disclosing material identified as exempt under section 47G could have an adverse effect on the business as disclosure of the information relating to pricing models proposed by Holocentric would impact upon their business.

9. 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 the time would, on balance, be contrary to the public interest’.

Section 47G – Public interest considerations

10. 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.

11. Paragraph 6.22 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.

12. As outlined in paragraph 6 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.

13. I do not believe that the removal of the business information significantly detracts from the value of the document being sought by the applicant.

14. 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.

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Adrian Sancataldo
Accredited Decision Maker
Chief Information Officer Group

June 2017