
From: FOI
Sent: Thursday, 22 June 2017 3:22 PM
Subject: 38. Freedom of Information Request: Opportunity to make a submission - Business Information

Dear

The Department of Health has received a request under the *Freedom of Information Act 1982* for access to documents containing business information about **you OR your organisation OR your undertaking**.

In the course of locating the documents falling within the scope of the applicant's request, the enclosed **documents/document were/was** identified. The decision maker has formed the view that you might reasonably wish to contend that **they are/ it is** exempt from disclosure to the applicant on the exemption grounds set out below.

Under the FOI Act, where an Australian Government agency receives a request for access to documents containing 'business information' as defined below and the agency believes that the relevant individual or organisation/undertaking may wish to contend that the documents are exempt from release, the agency is required to consult the relevant individual or organisation/undertaking before making a decision to grant access.

'Business information' means:

- in relation to an individual, information about the individual's business or professional affairs;
- in relation to an organisation or undertaking, information about the business, commercial or financial affairs of the organisation or undertaking.

Relevant grounds of exemption

The relevant **grounds/ground** of exemption **is/are**:

Section 47 – Documents disclosing trade secrets or commercially valuable information.

- Documents are exempt if release would disclose trade secrets or information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

Section 47G – Business (public interest conditional exemption).

- Documents are conditionally exempt if disclosure 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 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.

Note: This exemption is available only if, in addition to the above details, it can be demonstrated that granting access would be, on balance, contrary to the public interest.

Opportunity to make a submission

You are invited to advise the department if you have any objection to the release of the enclosed documents on a ground listed above.

If you consider that the decision should be **to refuse** access to some or all of the documents, please provide an explanation why the relevant exemption provision or provisions summarised above apply to the

enclosed documents. It is not sufficient to simply assert that the documents are exempt. You need to provide reasons about why it is exempt.

The decision maker in the Department of Health is required to make an independent decision. The final decision on release or exemption rests with the decision maker. The decision maker will give due and full consideration to any submission you may choose to make but is not under any obligation to make a decision consistent with your submission. If the decision maker decides to grant access to any documents whose release you opposed, you will be given written notice of the decision and the opportunity to seek review of the decision before those documents are released.

How to make your submission

Please send your comments in writing by **{insert time and date}**. If a response is not received by this date, the decision maker will make a decision without further contact with you.

You can reply by either email at foi@health.gov.au or by post:

The FOI Unit (MDP 516)
Department of Health
GPO Box 9848
CANBERRA ACT 2601

Applicant's review rights

The applicant has rights of review under the FOI Act. These include external review by the Australian Information Commissioner and the Administrative Appeals Tribunal. If the decision is to exempt any material in accordance with any submission you may make, that submission may be required to be given to the external reviewer.

Disclosure log

You should be aware that if the department decides to grant access to a document, or parts thereof, it is required to publish the information contained in this accessed document on the department's [Disclosure Log](#), unless one of the exceptions in s11C of the FOI Act apply.

If you consider that it would be unreasonable for some or all of the documents to be published, please indicate this in your response. A Disclosure Log decision is not reviewable, but the Department would take your views into account.

Contacts

If you require clarification of any of the matters discussed in this email you can contact the FOI Unit on (02) 6289 1666 or at foi@health.gov.au.

Yours sincerely

FOI and Legislation Section

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The Department of Health acknowledges the Traditional Custodians of Australia and their continued connection to land, sea and community. We pay our respects to all Elders past and present.

If you receive this email in error, please delete it and contact the sender immediately.

This document was released under
the Freedom of Information Act 1982
by the Department of Health