



Australian Government
Department of Communications

FOI REQUEST NO. 21-1314
RENAI LEMAY, DELIMITER
ACCESS DECISION
STATEMENT OF REASONS

I, Andrew Madsen, Assistant Secretary, Governance Branch, Corporate Division of the Department of Communications (**the Department**):

- (a) being authorised by the Secretary under subsection 23(1) of the *Freedom of Information Act 1982* (**the FOI Act**) to make decisions about access to documents under the FOI Act; and
- (b) required under section 26 of the FOI Act to provide a Statement of Reasons for my decision;

make the following statement in relation to my decision on access for the incoming government brief.

A. BACKGROUND

1. On 25 September 2013, the Department received a request from Renai LeMay, Delimiter (**the applicant**) under section 15 of the FOI Act, requesting access to:
“any documents provided to or developed for Communications Minister Malcolm Turnbull, Parliamentary Secretary to the Minister for Communications, Paul Fletcher, or any other Minister, since they were sworn in, which constitute post-election briefing information from the department”.
2. On 27 September 2013, the applicant was notified of the Department’s decision to impose processing charges in relation to this request.
3. On 10 October 2013, the applicant contended the decision to impose charges.
4. On 6 November 2013, the Department notified the applicant of a fifty percent reduction to charges on public interest grounds.

5. On 7 November 2013, the applicant paid the deposit of the processing charges to facilitate continued processing of the request.

B. DECISION

6. The documents covered by the request are collectively referred to as the incoming government brief for the Coalition government, or the blue book. The blue book comprises some 142 documents containing strategic advice to the incoming government on issues affecting the communications sector and advice on implementing the Coalition's election commitments.
7. The documents identified in this request are identical to documents I considered in a recent FOI decision (our reference: FOI 14-1314). For the reasons set out in that decision, I have decided that documents 1 to 142 inclusive, as covered in this request, are wholly exempt under section 47C and paragraph 47E(d) of the FOI Act.
8. A copy of the access decision Statement of Reasons in relation to FOI 14-1314 is attached and is also available on the Department's website at http://www.communications.gov.au/about_us/freedom_of_information_disclosure_log.
9. In making this decision, I considered the specific purpose of the incoming government briefs. I am of the view that it is imperative that such advice and briefings are provided on a confidential basis to the incoming Minister in order for them to contain frank and candid advice and to ensure they contain all of the strategic information necessary for the incoming Minister to make fully informed decisions.
10. Further, it is important for the convention of responsible government that the preparation of candid, confidential and comprehensive incoming government briefs be undertaken. It is a fundamental function of the Department to provide robust strategic advice and it is imperative to enable a smooth transition to policy implementation for an incoming government. It is vital that such briefs remain confidential for a trusted working relationship between the Department and an incoming government to develop.
11. Notwithstanding the public interest considerations in favour of disclosure that may apply in relation to the incoming government brief, I consider the public interest factors against disclosure of the blue book to be considerably stronger.

C. DECISION ON CHARGES

12. In my decision on FOI 14-1314, I also considered the level of charges to be applied. The Department would be entitled to charge for the processing of this request as in processing Blue book requests I was required to review a significant number of documents, consult broadly within the Department and undertake a careful weighing of the public interest factors. However, I have decided that charges will not be imposed in this instance and that the payment made by the applicant on 7 November 2013 should to be refunded.

D. REVIEW RIGHTS

13. This decision is subject to review under section 54 and/or 54L of the FOI Act. The OAIC's FOI Fact Sheet 12 – Your review rights is attached.



Andrew Madsen
Assistant Secretary | Governance
Corporate Division

5 December 2013