



22 May 2017

Our reference: LEX 25069

Mr Luke Bacon
Right to Know

By email: foi+request-2921-a35b17e1@righttoknow.org.au

Dear Mr Bacon

Decision on your Freedom of Information request

I refer to your request dated 8 January 2017 and received by the Department of Human Services (the **department**) on the same date for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following:

'The Department runs a "data matching" process called the Non Employment Income Data Matching (NEIDM) project. Could you please send through:

1. the latest document that lists the software used to run this project;
2. the latest document that identifies the group(s) responsible for managing this project, maintaining the software that runs it, and ongoing development of that software; and,
3. the latest version of the source code for the software that performs the data matching'.

Deemed refusal

I note that you have not been provided with a notice of a decision within the statutory period for processing your FOI request. This means that the decision on your request is a 'deemed refusal' decision by operation of the FOI Act.

Nevertheless, we have continued to process your request and my decision is set out below.

My decision

The department holds one document (totalling 21 pages) that relates to Part 1 of your request.

I have decided to grant you **full access** to that document.

In addition, I have decided to **refuse access** to documents in relation parts 2 and 3 of your request under section 24A of the FOI Act on the basis that all reasonable steps have been taken to locate the documents you have requested and I am satisfied that they cannot be located or do not exist.

Please see the schedule at **Attachment A** to this letter for a detailed list of the documents and the reasons for my decision, including the relevant sections of the FOI Act.

Release of document

The document is attached.

Since making your FOI request, information regarding the NEIDM program protocol has come into the public domain, including the Australian Information Commissioner's response to Questions on Notice from the Senate Community Affairs References Committee Inquiry on the design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System initiative, which is available [here](#).

Charges

On 22 February 2017, the department notified you that you were liable to pay a charge of \$15.00 for the processing of your request. On 6 April 2017, the department received your payment by money order.

I have considered the actual cost of processing the request and I am of the view that this amount represented a fair and reasonable calculation of the cost to the Department in order to process your request.

However, as the decision was a 'deemed refusal', the department will refund the amount of \$15.00 to you.

Please contact us at the email address below to arrange for the refund.

You can ask for a review of our decision

If you disagree with any part of my decision you can ask for a review. Under section 54E of the FOI Act, as the decision was a 'deemed refusal' you cannot seek an internal review from within the department. You have the right to seek a review by the Australian Information Commissioner. You do not have to pay for reviews of decisions. See **Attachment B** for more information about how to arrange a review.

Further assistance

If you have any questions please email FOI.LEGAL.TEAM@humanservices.gov.au

Yours sincerely

Charlie
Authorised FOI Decision Maker
Freedom of Information Team
FOI and Litigation Branch | Legal Services Division
Department of Human Services



LIST OF DOCUMENTS FOR RELEASE
RIGHT TO KNOW – MR LUKE BACON - LEX 25069

Doc No.	Pages	Date	Description	Comments
1.	1 – 21	August 2016	Non-Employment Income Data Matching Program Protocol	



REASONS FOR DECISION

What you requested

On 8 January 2017, you submitted the following FOI request:

' The Department runs a "data matching" process called the Non Employment Income Data Matching (NEIDM) project. Could you please send through:

1. the latest document that lists the software used to run this project;
2. the latest document that identifies the group(s) responsible for managing this project, maintaining the software that runs it, and ongoing development of that software; and,
3. the latest version of the source code for the software that performs the data matching'.

On 7 February 2017, the department wrote to you to advise that the period for processing your request had been extended by 30 days in order to allow the department time to consult with third parties whose information was contained in documents that were in scope of your request.

On 28 February 2017, the department wrote to you to advise that a document known as "Program Protocol Non-Employment Income Data Matching – NEIDM" had been located and was the basis for the calculation of the charge that was notified to you on 22 February 2017.

On 3 March 2017, the department wrote to you to advise that:

- only one document had been identified within scope of your request;
- the details of this document had already been provided to you; and
- the document is relevant to portions of your request and does not contain all the information requested.

What I took into account

In reaching my decision I took into account:

- your original request dated 8 January 2017;
- correspondence from the department to you on 7 February 2017, 28 February 2017 and 3 March 2017;
- other discussions and correspondence with you;
- the documents that fall within the scope of your request;
- consultations with departmental officers about:
 - the nature of the documents;
 - the department's operating environment and functions;

- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the **Guidelines**);
- the FOI Act.

Reasons for my decisions

I am authorised to make decisions under section 23(1) of the FOI Act.

Parts 2 and 3 of your request

Section 24A of the FOI Act provides that:

- (1) An agency or Minister may refuse a request for access to a document if:
 - (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

I undertook consultations with the Customer Compliance Division, ICT Infrastructure Division and the Applications Delivery Division regarding Parts 2 and 3 of your request. These Divisions did not identify any documents matching the descriptions of Parts 2 and 3 of your request.

In relation to Part 2 of your request, I was advised that, as NEIDM has not yet been fully implemented as a policy and is still in the preparation stage, the department does not hold a specific document that identified the group or groups responsible for managing the NEIDM project, maintaining the software that runs it, and ongoing development of the software.

In relation to Part 3 of your request, I was advised that, as NEIDM has not yet been fully implemented as a policy and is still in the preparation stage, the department has not yet developed the source code to be used for the NEIDM project.

On the basis of the searches that have been conducted, I am satisfied that in accordance with section 24A of the FOI Act:

1. all reasonable steps have been taken to find the documents; and
2. the documents do not exist.



Attachment B

INFORMATION ON RIGHTS OF REVIEW

FREEDOM OF INFORMATION ACT 1982

Asking for a full explanation of a Freedom of Information decision

Before you ask for a formal review of a FOI decision, you can contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct misunderstandings.

Asking for a formal review of an Freedom of Information decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for a review of the decision. Under the FOI Act, you can apply for a review of an FOI decision by the Australian Information Commissioner.

Note: There are no fees for these reviews.

Applying for external review by the Australian Information Commissioner

If you do not agree with the department's decision, you can ask the Australian Information Commissioner to review the decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.

You can **lodge your application**:

Online: www.oaic.gov.au
Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001
Email: enquiries@oaic.gov.au

Important:

- If you are applying online, the application form the 'Merits Review Form' is available at www.oaic.gov.au.
- If you have one, you should include with your application a copy of the Department of Human Services' decision on your FOI request
- Include your contact details
- Set out your reasons for objecting to the department's decision.

Complaints to the Australian Information Commissioner and Commonwealth Ombudsman

Australian Information Commissioner

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Australian Information Commissioner must be made in writing. The Australian Information Commissioner's contact details are:

Telephone: 1300 363 992
Website: www.oaic.gov.au

Commonwealth Ombudsman

You may also complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Commonwealth Ombudsman may be made in person, by telephone or in writing. The Commonwealth Ombudsman's contact details are:

Phone: 1300 362 072
Website: www.ombudsman.gov.au

The Commonwealth Ombudsman generally prefers applicants to seek review before complaining about a decision.