



**Australian Government**  
**Department of Finance**

Reference: FOI 22/85  
Contact: FOI Team  
e-mail: [foi@finance.gov.au](mailto:foi@finance.gov.au)

C Drake  
Right to know

By email only: [foi+request-9394-d71a9986@righttoknow.org.au](mailto:foi+request-9394-d71a9986@righttoknow.org.au)

Dear Mr Drake,

### **Freedom of Information Request – FOI 22/85**

On 24 September 2022, the Department of Finance (Finance) received your email, in which you sought access under the Commonwealth *Freedom of Information Act 1982* (FOI Act) to documents held by Finance. A copy of your request is at **Attachment A**.

### **Initial Charges Estimate**

On 10 October 2022, Finance notified you of the \$164.42 preliminary assessment of the charges payable by you for Finance to process your request.

### **Contention of the charges**

On 12 October 2022, you outlined your contention of the preliminary assessment charge and sought waiver of the charges. A copy of your contention is at **Attachment B**.

### **Decision on waiver of charges**

I have decided to affirm the preliminary charge assessment of \$164.42.

### **Authorised decision-maker**

I am authorised by the Secretary of Finance to make decisions under the FOI Act.

## Consideration of contention

In considering whether charges should be reduced or waived, I have had regard to the following:

- the terms of your FOI request;
- the submissions set out in your contention of 12 October 2022;
- the content of the documents that fall within the scope of your request;
- the relevant provisions of the FOI Act;
- the FOI Guidelines issued by the Office of the Australian Information Commissioner (OAIC).

Subsection 29(5) of the FOI Act provides:

Without limiting the matters the agency or Minister may take into account in determining whether or not to reduce or not to impose the charge, the agency or Minister must take into account:

- (a) whether the payment of the charge, or part of it, would cause financial hardship to the applicant, or to a person on whose behalf the application was made; and
- (b) whether the giving of access to the document in question is in the general public interest or in the interest of a substantial section of the public.

Subsection 7(1) of the *Freedom of Information (Charges) Regulations 2019* (Charges Regulations) provides:

There is no charge in respect of a request for, or for the provision of, access to a document that contains personal information of the applicant.

Section 4 of the FOI Act provides that 'personal information' has the same meaning as in the *Privacy Act 1988*, which provides in s 6:

personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- whether the information or opinion is true or not; and
- whether the information or opinion is recorded in a material form or not.

## Calculation of charge amount

In your request you sought an explanation as to the time estimated for searching for documents and decision making time.

The FOI charges calculator that Finance uses to assist in estimating a charge for processing a FOI request, together with the data inputs relevant to this request, are at **Attachment C**.

I am satisfied that the 28 minute estimate accurately represents the time taken to search for and retrieve the documents relevant to the scope of your request. The FOI Team already had a copy of the contracts, however, your request sought all communications between Finance and third parties in relation to your request. This required multiple staff members to review their inboxes and retrieve any relevant documents. In addition, it requires the FOI Team to convert those documents to .pdf, arrange into chronological order and create a schedule of those documents.

I am satisfied that 13 hours of decision making time is reasonable in the circumstances of your request for the following reasons:

- The 8 documents identified as being relevant to your request have 74 pages that contains significant complex legal drafting that requires careful assessment.
- The documents relate to third parties who may reasonably seek to object to the disclosure of material as it relates to their businesses, which requires consultation.
- Given the complex legal drafting that relates to the activities of businesses, it is likely that a number of exemptions under the FOI Act will apply to exempt certain material from release.
- Drafting a decision letter requires careful consideration of the FOI Act, the FOI Guidelines, and relevant case law decisions from FOI review bodies.

I consider that the estimate of 13.5 hours of work, and the associated charges estimate of \$164.42 is a reasonable estimate of the time required to process your request.

#### **Personal information**

In your charges contention, you stated:

... information about myself ... which are exempt from charges.

I understand that you are asserting that some of the information contained in the documents contains your personal information, and therefore those documents are exempt from charging under section 7 of the Charges Regulations.

I do not consider that the documents contain your personal information, as Finance does not hold any personal information of 'C Drake'. You have not provided your identity as you have used the Right to Know website and you are not reasonably identifiable.

I note that you have forwarded another email, which I understand was addressed to you, which began with greeting 'Hi Chris'. However, I consider that this information is not sufficient to make your identity reasonably identifiable.

Regardless, had you been identified, or were reasonably identifiable, I do not consider that the documents contain your personal information. Personal information is information about an individual. The steps that an agency has taken in response to a FOI request does not make the request personal information. The content of the documents themselves must contain your personal information.

Further, the documents you have requested predominantly consist of contracts between Finance and auDA and Identity Digital. The correspondence with auDA and Identity Digital, while it may have occurred in response to your FOI request, is in fact related to the subject matter of the FOI request, being the Master List, and does not contain personal information about you. As the Master List does not contain your personal information, we do not consider correspondence relating to it can be appropriately characterised as such.

For the above reasons, I do not consider that the documents contain your personal information, and therefore, section 7 of the Charges Regulations does not apply to exempt your request from charges.

**Financial hardship**

I am required to consider whether payment of the charges would cause you financial hardship. You have not provided any contentions or evidence that this may be the case, as such, I have not considered this factor any further.

**Public Interest**

Paragraph 29(5)(b) of the FOI Act requires me to consider 'whether the giving of access to the documents in question is in the general public interest or in the interest of a substantial section of the public'.

The FOI Guidelines at paragraph 4.109 has a non-exhaustive list of factors that may constitute 'public interest' for the purposes of charging under the FOI Act.

The documents relate to the standard contractual provisions in relation to the provision of services for the administration of .au and the .gov.au domain name registry, together with the standard steps required to be undertaken by Finance to consult with third parties.

I do not consider that the documents that you have requested relate to a matter of public debate, or to a policy issue under discussion, or that disclosure would assist the public to comment on, or participate in, the debate or discussion.

***Improper behaviour***

In your charges contention you stated:

I consider that the information that I am seeking will reveal improper behavior of FoI officer(s) in connection with my earlier request, and will show them taking steps to prevent the disclosure of information to me by negotiating with a formerly agreeable 3rd party and convincing them to raise an improper objection, or it will reveal that an FoI officer has told lies in support of rejecting a previous FoI request and has alleged the false existence or meaning of documents or intent. It is absolutely improper to charge me so that an FoI officer can spend time redacting and fighting against the release of documents which will almost certainly reveal improper behavior of that FoI officer.

I consider that if documents existed that would reveal improper behaviour of government employees, then those documents would be relevant to the public interest considerations for the purposes of charging under the FOI Act. However, I have reviewed the documents and they do not reveal any improper behaviour of FOI Officers', or any government employee. Finance's employees, in response to receiving your FOI request (FOI 22/54) conducted themselves at all times in accordance with their obligations under the APS Code of Conduct.

***Conclusion***

I have not identified any relevant public interest factors that warrant a reduction or waiver of the charge amount of \$164.42.

**Next steps****Timeframe**

Within 30 days of the date of this notice, you need to either:

- agree to pay the charge of \$164.42; or
- seek an internal review of this charges decision, or
- withdraw your request.

Notice must be provided to Finance in writing. If you fail to notify Finance in a manner described above within 30 days of the date on this notice, being on or before **Tuesday 1 December 2022**, it will be taken that you have withdrawn your request.

The time period for processing your request remains suspended from the date of this notice and resumes on either the day you pay the charges amount or the day on which Finance makes a decision not to impose a charge. However, the actual processing time would also be affected by third party consultation.

### **Payment of charges**

You can agree to pay the charge. If you agree, processing of your request will resume as soon as Finance receives payment.

Payment is \$164.42. Payment entitles you to receive a decision in relation to your request, a schedule (if there are more than 3 documents) which lists the documents relevant to your request, and any documents released.

If you agree to pay the charge please notify the FOI team and they will prepare an invoice for you to complete, sign and return.

### **Review and Appeal Rights**

You are entitled to request an internal review or an external review to the Office of the Australian Information Commission of my decision to impose a charge of \$164.42. Your review rights are set out in **Attachment D**.

Please contact the FOI Team if you wish to discuss your request.

Yours sincerely,



Marc Vickers  
Assistant Secretary  
Governance and Procurement | Information and Communications Technology  
Department of Finance  
1 November 2022

**From:** [C Drake](#)  
**To:** [FOI Requests](#)  
**Subject:** Freedom of Information request - All supporting documents mentioned in refusal of FOI 22/54  
**Date:** Saturday, 24 September 2022 9:51:43 AM

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Dear Department of Finance,

Please supply:

[In relation to items in the section "Decision" of FOi 22/54]

1. the Sponsorship Agreement between auDA and Finance (suitably redacted where necessary) but which must include all terms and references relating to confidential information and any such requirements as they might apply to the domain names themselves

2. the Registry-Registrar Agreement between Identity Digital and Finance; (suitably redacted where necessary) but which must include all terms and references relating to confidential information and any such requirements as they might apply to the domain names themselves

3. the outbound consultation with auDA and Identity Digital

4. and the joint submissions made by auDA and Identity Digital

[in relation to the Background or any other part of FOi 22/54]

5. all outbound correspondence in which I am mentioned (by name or otherwise) and/or which my FOI 22/54 is mentioned or related to, since (and including) the date of my filing of my FOI, upto and including the moment you fulfill this request.

6. all inbound correspondence in response to items 3 and 5 above, or in which I am mentioned (by name or otherwise) and/or which my FOI 22/54 is mentioned or related to.

7. The "information" cited in your statement "inconsistent with the information that has been provided directly to Finance by Identity Digital." in relation to my statement: "The best way to fulfil my request is to get in touch with Afiliis Australia Pty Ltd. I've opened a case with them, and all they need from you is the approval to send me the list." which related to the following:-

Date: Thu, 4 Aug 2022 07:21:00 +0000 (GMT)

From: ".au Support" <xxxxxxx@xxxxxxx.xxx.xx>

Sender: xxxxxx@xxxxxxxxxxx.xxx

Subject: [.au Support - Case #01239018] The "master list" of gov.au public domain names.

Hi Chris,

Since you need report on gov.au domains you need to contact the registrar Department of Finance-.au. You can either get this report for them or if they request us to send it, we are happy to send the report to the registrar. But, it should be requested by the registrar's authorised contact.

Should you require further assistance please do not hesitate to contact us and include the string: ref:\_00DD0CWb4.\_5004G2Ri8xw:ref in the body of all future correspondence with regards to this ticket. To do so, you may simply reply to this message.

Sincerely,

Abhinav Vatsavaya

.au Support

Web Portal: <https://portal.afilias.info/>

Email: xxxxxx@xxxxxxxx.xxx.xx

Phone: +61-3-9945-0650 (Australia)

Phone: +1-416-619-3038 (North America)

8. The complete document and/or transcript chain, and all specified "objections" mentioned in your statement "In considering whether or not the Master List should be released to you, Finance consulted with both auDA and Identity Digital who jointly objected to the disclosure of the Master List.". I want to know what you said to them, which made them (according to you) change their minds (see their letter to me above) - so be sure that what you did say to them is included in your response.

9. The complete and current list of public-facing government .au domain names (no other information, just the domain names). Note that this used to be publicly available on assorted government web sites, but those URLs (e.g. <https://data.gov.au/dataset/a-z-list-of-government-sites>) are now returning 404-not-found errors. Previous FoI requests to this information have been granted (e.g. [https://www.righttoknow.org.au/request/list\\_of\\_government\\_govau\\_domains](https://www.righttoknow.org.au/request/list_of_government_govau_domains))

Yours faithfully,

C Drake

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Please use this email address for all replies to this request:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX@XXXXXXXXXX.XXX.XX

Is xxx@xxxxxxx.xxx.xx the wrong address for Freedom of Information requests to Department of Finance? If so, please contact us using this form:

[https://www.righttoknow.org.au/change\\_request/new?body=finance](https://www.righttoknow.org.au/change_request/new?body=finance)

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:

<https://www.righttoknow.org.au/help/officers>

Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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Be careful with this message

External email. Do not click links or open attachments unless you recognise the sender and know the content is safe.

**From:** [C Drake](#)  
**To:** [FOI Requests](#)  
**Subject:** Re: FOI 22/85 -Preliminary charges notice [SEC=OFFICIAL]  
**Date:** Wednesday, 12 October 2022 4:34:50 PM

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Dear FOI Requests,

No charges should be imposed for my request for the following reasons:

Some of my request relates to information about myself (items 5, 6, and 7) which are exempt from charges.

Items 3, 4 and 8 almost certainly also relate to information about myself (they were generated as a result of my request)

Item 9 is immediately available via numerous mean and takes no more than a 5 minute phone call, or 5 minute email, to make available to me if desired.

Items 1 through 8 have ALREADY been "located" and used in connection with my earlier FOI request for which no fees were levied. It would be improper to charge me for work that has already taken place, or to charge "search" for items that are already "found", or to charge me for "decision" time on these items (see below).

I contend that the information I am seeking will reveal improper behavior of FoI officer(s) in connection with my earlier request, and will show them taking steps to prevent the disclosure of information to me by negotiating with a formerly agreeable 3rd party and convincing them to raise an improper objection, or it will reveal that an FoI officer has told lies in support of rejecting a previous FoI request and has alleged the false existence or meaning of documents or intent. It is absolutely improper to charge me so that an FoI officer can spend time redacting and fighting against the release of documents which will almost certainly reveal improper behavior of that FoI officer. Accordingly:-

THE IMPOSITION OF CHARGES FOR THIS SEARCH ARE UNDENIABLY AN ATTEMPT TO DISCOURAGE MY FoI REQUEST.

If you refuse to withdraw this charge request, I require a detailed breakdown of the costs involved for each process of my items 1 through 9, along with an explanation as to why search and decision time might be required (taking into account the fact that all these documents were already used in support of rejecting my earlier FoI request) so that I can check that the breakdowns are honest, allowable and genuine.

I'm happy to pay any \*genuine\* charges if it result in the release of item 9, and I'm also happy to pay any charges on the condition that I receive a full refund, along with supply of item 9, if an independent arbitrar believes that improper conduct has occurred based on the release (or non-release) of items 1 through 8.

Yours sincerely,

C Drake

-----Original Message-----

SEC=OFFICIAL

Dear Mr Drake

Please see attached a preliminary charges notice in relation to your FOI request (our reference FOI 22/85).

Please note that the Office of the Australian Information Commissioner (OAIC) sets out the process for [1]calculating and imposing charges, together with information regarding when an agency should [2]correct, reduce or waive charges.

Kind regards

[3]cid:image002.png@01D892E6.FF23F6B0

FOI Officer | Legal and Assurance Branch

Business Enabling Services

Department of Finance

E: [4][Finance request email]

A: One Canberra Avenue, Forrest ACT 2603

SEC=OFFICIAL

#### References

#### Visible links

1. <https://www.oaic.gov.au/freedom-of-information/guidance-and-advice/calculating-and-imposing-charges-for-foi-access-requests>

2. <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-4-charges-for-providing-access#correction-reduction-or-waiver-of-charges>

4. [mailto:\[Finance request email\]](mailto:[Finance request email])

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Please use this email address for all replies to this request:

xx@xxxxxxxxxxxxx.xxx.xx

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FOI CHARGES ESTIMATE TOOL - SIMPLE (insert data in shaded boxes only)			
<b>GENERAL DATA ESTIMATE</b> (terms in red are explained on the notes sheet)			
Pages (approx) of material in scope	74	in A4 pages	
Number of discrete relevant documents	5		
Percentage (approx) of pages to disclose in whole	95%		
Percentage (approx) of pages requiring redaction	5%		
Percentage (approx) of content that is applicant's own personal information	0%		
Number of third parties to consult	2		
<b>PROCESS - search and retrieval</b>			
	<b>TIME per task</b>	<b>charge time:</b>	<b>COST @ \$15 per hr</b>
Time required to execute searches - enter hours (including part hours eg 0.5)	0.2	0.20	\$3.00
Preparing schedules detailing all relevant documents (basic data entry eg doc no, date, description) - enter minutes per 10 documents	10	0.08	\$1.25
<i>Search &amp; Retrieval Subtotal</i>		0.28	<b>\$4.25</b>
<b>PROCESS - decision-making</b>			
	<b>TIME per task</b>	<b>charge time:</b>	<b>COST @ \$20 per hr</b>
Examine relevant pages for decision making - enter minutes per page	3	3.70	\$74.00
Redacting pages that are partially disclosed - enter minutes per page	5	0.31	\$6.17
Consult third parties - enter average per third party in hours	2	4.00	\$80.00
<b>Preparation and notification of decision</b>			
Writing statement of reasons - enter hours	5	5.00	\$100.00
Complete schedule by recording decision @ 4 documents per minute		0	\$0.00
<i>Decision-making Subtotal (before deduction of 5 hours)</i>		13.01	\$260.17
<i>Decision-making Subtotal (after deduction of first 5 hours free for all)</i>		8.01	<b>\$160.17</b>
<b>ACCESS - view / inspect</b>			
	<b>TIME per task</b>	<b>charge time:</b>	<b>COST @ \$6.25 per 1/2 hr</b>
Supervised inspection of documents - minutes per page		0.00	0.00
Supervised inspection of audio/visual material - insert total duration of material in minutes then add 30 mins set-up and pack-up time		0.00	0.00
<i>Inspection/Viewing Subtotal</i>		0.00	<b>\$0.00</b>
<b>ACCESS - copy and post</b>			
		<b>PAGES</b>	<b>COST @ 10c a page</b>
Photocopies of estimated released pages (including those with deletions) - set to 0 if providing electronically		74	<b>\$0.00</b>
Electronic media (eg USB drive, CD-ROM) and/or postage - insert estimated cost of materials			<b>\$0.00</b>
<i>Access Subtotal</i>			<b>\$0.00</b>
<b>ESTIMATED TOTALS</b>			
<b>NUMBER OF RELEASED PAGES</b>			<b>74</b>
<b>TIME (in hours)</b>			<b>8.29</b>
<b>TOTAL COST</b>			<b>\$164.42</b>
Financial hardship/public interest discount (as %)	0%		<b>\$0.00</b>
<b>TOTAL COST (after discount)</b>			<b>\$164.42</b>



## Australian Government

### Department of Finance

## Freedom of Information – Your Review Rights

If you disagree with a decision made by the Department of Finance (Finance) or the Minister for Finance (Minister) under the *Freedom of Information Act 1982* (the FOI Act) you can have the decision reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request, if you have made a contention against the release of the documents that has not been agreed to by Finance or the Minister, or if your application to have your personal information amended was not accepted. There are two ways you can seek a review of our decision: an internal review (IR) by Finance or the Minister, or an external review (ER) by the Australian Information Commissioner (IC).

### Internal Review (IR)

If, Finance or the Minister (we/our), makes a Freedom of Information (FOI) decision that you disagree with, you can seek a review of the original decision. The review will be carried out by a different decision maker, usually someone at a more senior level.

You must apply for an IR within 30 calendar days of being notified of the decision or charge, unless we agree to extend your time. You should contact us if you wish to seek an extension.

We are required to make an IR decision within 30 calendar days of receiving your application. If we do not make an IR decision within this timeframe, then the original decision stands.

### Review by the Australian Information Commissioner (IC)

The Office of the Australian Information Commissioner (OAIC) is an independent office who can undertake an ER of our decision under the FOI Act. The IC can review access refusal decisions, access grant decisions, refusals to extend the period for applying for an IR, and IR decisions.

If you are objecting to a decision to refuse access to a document, impose a charge, or a refusal to amend personal information, you must apply in writing to the IC within 60 calendar days of receiving our decision.

### Third parties

If you are a third party objecting to a decision to grant someone else access to your information, you must apply to the IC within 30 calendar days of being notified of our decision to release your information. Further assistance is located [here](#).

### Do I have to go through the internal review process?

No. You may apply directly to the OAIC for an ER by the IC.

### If I apply for an internal review, do I lose the opportunity to apply for an external review?

No. You have the same ER rights of our IR decision as you do with our original decision. This means you can apply for an ER of the original decision or of the IR decision.

### Do I have to pay for an internal review or external review?

No. Both the IR and ER are free.

## How do I apply?

### **Internal review**

To apply for an IR of the decision of either Finance or the Minister, you must send your review in writing. We both use the same contact details, and you must send your review request in writing.

In your written correspondence, please include the following:

- a statement that you are seeking a review of our decision;
- attach a copy of the decision you are seeking a review of; and
- state the reasons why you consider the original decision maker made the wrong decision.

**Email:** [foi@finance.gov.au](mailto:foi@finance.gov.au)

**Post:** The FOI Coordinator  
Legal and Assurance Branch  
Department of Finance  
One Canberra Avenue  
FORREST ACT 2603

### **External review (Information Commissioner Review)**

For an ER, you must apply to the OAIC in writing. The OAIC ask that you commence a review by completing their online form [here](#).

Your application must include a copy of the notice of our decision that you are objecting to, and your contact details. You should also set out why you are objecting to the decision.

**Email:** [FOIDR@oaic.gov.au](mailto:FOIDR@oaic.gov.au)

**Post:** Office of the Australian Information Commissioner  
GPO Box 5218  
Sydney NSW 2001

The IC's enquiries phone line is 1300 363 992.

## Can I appeal the Information Commissioner's external review decision?

Yes. You can appeal the Information Commissioner's ER decision to the Administrative Appeals Tribunal (AAT).

There is a fee for lodging an AAT application (as at 12 October 2022 it is \$1,011).

Further information is accessible [here](#).

The AAT's number is 1800 228 333.

## Complaints

### **Making a complaint to the Office of the Australian Information Commissioner**

You may make a written complaint to the OAIC about actions taken by us in relation to your application.

Further information on lodging a complaint is accessible [here](#).

### **Investigation by the Commonwealth Ombudsman**

The Ombudsman can also investigate complaints about action taken by agencies under the FOI Act. However, if the issue complained about either could be, or has been, investigated by the IC, the Ombudsman will consult with the IC to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate the complaint, then they are to transfer all relevant documents and information to the IC.

The IC can also transfer a complaint to the Ombudsman where appropriate. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. You will be notified in writing if your complaint is transferred.

Complaints to the Ombudsman should be made online [here](#).

The Ombudsman's number is 1300 362 072.