



Mr John Smith

By Email Only:

foi+request-6241-7a126dc0@righttoknow.org.au

Our reference: 1-KZKXUXI
Contact Officer: S.Sword

26 March 2020

Decision relating to your Freedom of Information Request

Dear Mr Smith

I refer to your request dated 17 March 2020, requesting documents under the *Freedom of Information Act 1982 (FOI Act)*.

I am an authorised decision-maker under section 23(1) of the FOI Act.

Requested Documents

You requested; -

- “1. all email correspondence between the ATO and the firm 'Predictivehire'.*
- 2. any commercial contracts between the ATO and the firm 'Predictivehire'*
- 3. any marketing documents sent to the ATO, by Predictivehire, before predictivehire was signed on as a client of the ATO*
- 4. Access computer code & algorithms used by Predictivehire to create their online job application forms. I note that as an agent of the ATO (insofar as predictivehire is advising the ATO as to suitable job applicants), documents of predictivehire are subject to the FOI act; and that computer code is a 'document' under the FOI act.*

Decision

Unfortunately, no documents relevant to your request were found. Accordingly, I must refuse access to the documents you seek pursuant to section 24A of the FOI Act.

Reasons for Decision

Upon receiving your request, the relevant area of the ATO, ATO Finance, was contacted. ATO Finance are responsible for the management of all Commonwealth Contracts for the ATO. They have searched the relevant systems for the information relevant to your request.

I am satisfied that officers from the relevant areas conducted a reasonable search of all relevant ATO records that may contain documents within the scope of your request. For further information about what constitutes a reasonable search for documents, see the Guidelines issued by the Information Commissioner under section 93A of the FOI Act.

Section 24A of the FOI Act provides that:

- (1) *An agency or Minister may refuse 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.*

Accordingly, I must refuse access to the documents you seek pursuant to section 24A on the basis that, despite our searches for the documents requested, no documents were found.

Materials relevant to the making of the decision

In reaching my decision, I have relied on the following evidence and authorities:

- your FOI application;
- relevant guidance from the ATO area;
- the FOI Act;
- the FOI Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the ATO for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter, quoting our reference number at the top of this letter, and be lodged in one of the following ways:

email: FOI@ato.gov.au
post: Australian Taxation Office, General Counsel, GPO Box 4889, Sydney NSW 2001.

Where possible please attach reasons why you believe review of the decision is necessary.

The internal review will be carried out by another officer within 30 days. If you have not been informed of the outcome of the review within that time, you may apply to the Australian Information Commissioner under section 54L of the FOI Act.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review-enquiries@oaic.gov.au>
email: enquiries@oaic.gov.au
post: GPO Box 5218, Sydney NSW 2001
in person: Level 3, 175 Pitt Street, Sydney NSW

Your application must include a copy of this letter (and any attachments), an address where notices can be sent to you (eg. your email address) and particulars of the basis on which you dispute the decision.

Visit the Australian Information Commissioner website, www.oaic.gov.au/freedom-of-information/foi-reviews , for more information about Information Commissioner review.

Complaints

Any complaint about the processing of your FOI request can be forwarded to the Information Commissioner. The complaint needs to be in writing and identify the agency against which the complaint is made. There is no particular form required to make a complaint, however using the online form is preferable.

online: https://forms.business.gov.au/aba/landing.htm?formCode=ICCA_1
email: enquiries@oaic.gov.au
post: GPO Box 5218, Sydney NSW 2001
in person: Level 3, 175 Pitt Street, Sydney NSW

The Information Commissioner can be contacted on 1300 363 992 for the cost of a local call.

S. Sword
Senior Lawyer
General Counsel
Australian Taxation Office