

**E-mail Message**

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**From:**  
**To:** [Freedom of Information \[SMTP:FOI@innovation.gov.au\]](mailto:Freedom of Information [SMTP:FOI@innovation.gov.au])  
**Cc:**  
**Sent:** 16/10/2012 at 3:12 PM  
**Received:** 16/10/2012 at 3:12 PM  
**Subject:** FOI request

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Hi

under the freedom of information act I seek the following:

a document which shows the amount of money paid to Toyota, Ford and GM Holden between 2001 and 2012 in assistance by the federal government.

I do not seek original documents.

You've got my number if you need to contact me.

Many thanks,

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E-mail Message

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**From:**  
**To:** [Freedom of Information \[SMTP:FOI@innovation.gov.au\]](mailto:Freedom of Information [SMTP:FOI@innovation.gov.au])  
**Cc:**  
**Sent:** 5/11/2012 at 4:12 PM  
**Received:** 5/11/2012 at 4:12 PM  
**Subject:** Response from applicant - request department to create a document

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Hi

I am requesting the department create the document, which I know you are able to do under the act.

Many thanks,

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From: Freedom of Information [mailto:FOI@innovation.gov.au]  
Sent: Monday, 5 November 2012 3:56 PM  
To:  
Cc:  
Subject: RE: Acknowledge of your Freedom of Information Request [SEC=UNOFFICIAL]

Dear

Following preliminary searches undertaken by the department, I wish to bring it to your attention that the department does not have such a document as described in your email of 16 October 2012, which is "...a document which shows the amount of money paid to Toyota, Ford and GM Holden between 2001 and 2012 in assistance by the federal government". However, the department does hold several documents which contain parts of the information you have requested.

Could you please advise if you wish the department to process your FOI request on this basis.

Your prompt reply would be much appreciated.

Kind regards,

Senior FOI Officer

Legal Branch

Corporate Division

Department of Industry, Innovation, Science, Research and Tertiary Education

Level 4 - 20 Allara St

Canberra City ACT 2600

GPO Box 9839, Canberra ACT 2601

Email:

Internet: <http://www.innovation.gov.au>

ABN 74 599 608 295

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Sent: Monday, 5 November 2012 10:36 AM

To: Freedom of Information

Subject: Re: Acknowledge of your Freedom of Information Request [SEC=UNOFFICIAL]

Thanks, please be aware I am seeking a separate figure for each company.

From: Freedom of Information [mailto:FOI@innovation.gov.au]

Sent: Monday, November 05, 2012 10:16 AM

To:

Cc:

Subject: Acknowledge of your Freedom of Information Request [SEC=UNOFFICIAL]

Dear

We acknowledge receipt of your request under the Freedom of Information Act 1982 for access to "...a document which shows the amount of money paid to Toyota, Ford and GM Holden between 2001 and 2012 in assistance by the federal government".

Kind regards,

Senior FOI Officer

Legal Branch

Corporate Division



Department of Industry, Innovation, Science, Research and Tertiary Education

Level 4 - 20 Allara St

Canberra City ACT 2600

GPO Box 9839, Canberra ACT 2601

Internet: <http://www.innovation.gov.au>

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**Australian Government**  
**Department of Industry**  
**Innovation, Science, Research**  
**and Tertiary Education**

Our ref: 12/22064

GPO Box 9839  
Canberra ACT 2601 Australia  
Web: [www.innovation.gov.au](http://www.innovation.gov.au)  
ABN: 74 599 608 295

Dear

**Request for access to information under the *Freedom of Information Act 1982* – Notice of Decision**

I refer to your correspondence, received by the Department of Industry, Innovation, Science, Research and Tertiary Education (the department) on 16 October 2012, in which you requested access under the *Freedom of Information Act 1982* (the FOI Act) to the following:

*“...a document which shows the amount of money paid to Toyota, Ford and GM Holden between 2001 and 2012 in assistance by the federal government”.*

On 5 November 2012, the department notified you that a document, as described in your correspondence of 16 October 2012, did not exist. However, the department further advised that it held several documents which contain parts of the information you requested and queried whether you would want the department to process the request on that basis.

In an email of 5 November 2012, you responded that the department could create a document under the FOI Act.

**Decision**

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

I am satisfied that reasonable searches have been conducted to locate a document that falls within the scope of your request but no such document exists. I have therefore decided to refuse your request in accordance with section 24A of the FOI Act on the grounds that the document you have requested does not exist.

**Evidence/Material on which my findings were based**

In reaching my decision to refuse your request, I relied on the following documentary evidence:

- *Freedom of Information Act 1982*;
- the scope of the request received by the Department from you on 16 October 2012;
- our correspondence dated 5 November 2012;
- consultations with departmental officers as to the possible generation of documents within the scope of your request; and
- the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act.

**Section 17 - Requests involving use of computers etc.**

I am satisfied that reasonable searches have been conducted to locate the document but it does not exist. However, before deciding to refuse your request, I considered whether the department is required to create a document containing the requested information, under section 17 of the FOI Act.

Subsection 17(1) of the FOI Act provides that where it appears from a request that an applicant is seeking information that is not available in discrete form in written documents of the agency, and it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded, and the agency could produce a written document containing the information by use of a computer or other equipment ordinarily available to the agency, the agency must deal with the request as if it were a request for access to a written document so produced and containing that information. This provision is generally used where information relevant to an FOI request can be retrieved from an electronic database.

I am advised that the department does not record money paid to the automotive industry in a single document or database. Therefore, there is not one single electronic database from which the information you request can be retrieved.

I note that paragraph 3.7 of the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act notes that:

*"The right of access is to existing documents, rather than to information. The FOI Act does not require an agency or minister to create a new document in response to a request for access, except in limited circumstances where the applicant seeks access in a different format or where the information is stored in an agency computer system rather than in discrete form".*

Therefore, having considered the above, I have decided to refuse your request in accordance with section 24A of the FOI Act on the grounds that the document does not exist.

**Application for Internal Review**

Section 54 of the Act gives you the option to apply for a Departmental internal review of my decision. If you make an application for internal review it will be conducted by an officer of the Department (other than me) appointed by the Secretary of the Department to conduct a review and make a completely fresh decision on the merits of the case.

Application for a review of the decision must be made within 30 days after the day of receipt of this letter. You do not have to pay any fees or processing charges for an internal review, except for charges relating to the provision of any additional relevant material located as a result of the review (for example photocopying). While a specific form is not required, it would assist the decision maker if your application specifies the grounds on which you consider the decision should be reviewed.

Application for a review of a decision should be addressed to:

FOI Coordinator  
Department of Industry, Innovation, Science, Research and Tertiary Education  
GPO Box 9839  
CANBERRA ACT 2601

or by e-mail to: [FOI@innovation.gov.au](mailto:FOI@innovation.gov.au).

If the decision on internal review was not satisfactory to you, you would then be entitled to seek review of that decision by the Information Commissioner. You will be further notified of your rights of review at the time the internal decision is notified, should you take that course.



**Review by the Australian Information Commissioner**

Alternatively, section 54L of the FOI Act gives you the right to apply for review of my decision by the Australian Information Commissioner. An application for review by the Australian Information Commissioner may be made regardless of whether the decision was the subject of a Departmental internal review. An application for review by the Australian Information Commissioner must be made within 60 days of receipt of this notice. There is no fee for review by the Australian Information Commissioner.

You must apply in writing and you can lodge your application in one of the following ways:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)  
Post: GPO Box 2999, Canberra ACT 2601  
Fax: +61 2 9284 9666  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

An application form is available on the website at [www.oaic.gov.au](http://www.oaic.gov.au). Your application should include a copy of this notice and your contact details. You should also set out why you are objecting to the decision.

**Complaints to the 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 Act. There is no fee for making a complaint. The Australian Information Commissioner will make a completely independent investigation of your complaint. A complaint to the Australian Information Commissioner must be made in writing and can be lodged online using the IC Complaint Application form on the Australian Information Commissioner's website at [www.oaic.gov.au](http://www.oaic.gov.au).

Please do not hesitate to contact the FOI team on (02) 6102 8104, or by e-mail at [FOI@innovation.gov.au](mailto:FOI@innovation.gov.au), if you require any further clarification.

Yours sincerely



Mark Durrant  
General Manager  
Automotive and TCF

12 November 2012



**E-mail Message**

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**From:**  
**To:** [Freedom of Information \[SMTP:FOI@innovation.gov.au\]](mailto:Freedom of Information [SMTP:FOI@innovation.gov.au])  
**Cc:**  
**Sent:** 15/11/2012 at 9:44 PM  
**Received:** 15/11/2012 at 9:44 PM  
**Subject:** FOI request

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documents which show the amount of money paid to Toyota, Ford and GM Holden in assistance by the federal government, broken down by company

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**Australian Government**  
**Department of Industry**  
**Innovation, Science, Research**  
**and Tertiary Education**

GPO Box 9839  
Canberra ACT 2601 Australia  
Web: [www.innovation.gov.au](http://www.innovation.gov.au)  
ABN: 74 599 608 295

By email:

Dear

***Freedom of Information Act 1982 – Notice of Decision***

I refer to your correspondence received by the Department of Industry, Innovation, Science, Research and Tertiary Education (the department) on 15 November 2012, in which you requested access under the *Freedom of Information Act 1982* (the FOI Act) to the following

*“...documents which show the amount of money paid to Toyota, Ford and GM Holden in assistance by the federal government, broken down by company”*

In correspondence dated 16 November 2012, you clarified the scope of your request by advising that you are seeking access to *“...documents which show the amount of money paid to Toyota, Ford and GM Holden in assistance by the federal government, broken down by company for the years 2001-2012”*.

In correspondence dated 3 December 2012, the department informed you that your request encompassed a large number of documents and invited you to revise the scope of your request. On the same day you further clarified the scope of your request to: *“...single dollar figure for each company. All other information can be excluded”*.

In correspondence dated 13 December 2012, the department notified you that it was required to consult with certain third parties. Accordingly, the department had 60 days to provide you with a decision on access.

On 20 December 2012, the department was granted an extension of time by the Office of the Australian Information Commissioner for the processing of the request, the decision due date being 4 February 2013.

**Decision**

I am an authorised decision maker under section 23 of the FOI Act.

I am satisfied that reasonable searches have been undertaken and the department has in its possession 3 documents, parts of which contain information that is most relevant to your request.

Having considered the documents, I have decided to exempt the documents in full as the documents contain business information that is exempt under section 47G(1) of the FOI Act.

The reasons for my decision are set out below, as required by section 26 of the FOI Act.

### **Reasons for decision**

#### **Evidence/Material on which my findings were based**

In reaching my decision to exempt the documents in full, I relied on the following documentary evidence:

- the FOI Act;
- your correspondence received by the department on 15 November 2012 detailing the particulars of your request;
- your correspondence of 16 November 2012 and 3 December 2012 clarifying the scope of your request;
- the documents identified to be most relevant to the scope of your request;
- the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act;
- consultations with third parties under section 27 of the FOI Act; and
- consultations with departmental officers as to the nature of the documents.

#### **Section 47G – Business Information**

Paragraph 47G(1) of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would disclose information concerning the business, commercial or financial affairs of an organisation, in a case in which the disclosure of the information:

- would, or could reasonably be expected to, unreasonably affect that organisation adversely in respect of its lawful business, commercial or financial affairs.

I am satisfied that the documents most relevant to the scope of your request contain information about the lawful business, commercial or financial affairs of certain organisations and that disclosure of this information could reasonably be expected to adversely affect the organisations in respect of their lawful business affairs. The information contained in the documents is not publicly known and is not available from publicly accessible resources.

Under subsection 11A(5) of the FOI Act, the department is required to give access to the documents unless in the circumstances it would be, on balance, contrary to the public interest to do so.

In weighing up the public interest for and against disclosure under subsection 11A(5) of the FOI Act, I have taken into account the following factors in favour of disclosure, including the extent to which disclosure would:

- promote the objects of the FOI Act;
- inform debate on a matter of public importance; and
- promote effective oversight of public expenditure.

I have considered each of the factors favouring access listed above and I have decided that in this instance, disclosure of the business information contained in these particular documents would not go towards promoting the objects of the FOI Act or contribute, in any meaningful way, to informing debate on a matter of public importance. Disclosure of the business information would also not contribute to promoting the effective oversight of public expenditure as the business information includes financial assistance amounts that are not specific to automotive organisations.

I have also weighed against the factors in favour of disclosure the following factors indicating that access would be contrary to the public interest:

- disclosure of this information would reasonably be expected to adversely affect organisations in respect of their lawful business affairs;
- the information is not publicly known;
- the information is not available from publicly accessible resources; and
- no public purpose would be achieved through the release of the business information of these organisations.

I have also weighed against the factors in favour of disclosure the harm the disclosure of the business information is reasonably likely to cause to the sales of locally manufactured vehicles, and the adverse economic impact it is reasonably likely to have on automotive manufacturers and their workforce.

Following consideration of these factors, I have decided that in the circumstances of this particular matter, the public interest in disclosing the business information is outweighed by the public interest against disclosure.

I am therefore satisfied that the information in the documents is conditionally exempt under subsection 47G(1) of the FOI Act. Accordingly, I have decided to exempt the documents in full.

#### **Application for Internal Review**

Section 54 of the FOI Act gives you the option to apply for a departmental internal review of my decision. If you make an application for internal review, it will be conducted by an officer of the department (other than me) appointed by the Secretary of the department to conduct a review and make a completely fresh decision on the merits of the case.

Application for a review of the decision must be made within 30 days after the day of receipt of this letter. You do not have to pay any fees or processing charges for an internal review, except for charges relating to the provision of any additional relevant material located as a result of the review (for example photocopying). While a specific form is not required, it would assist the decision maker if your application specifies the grounds on which you consider the decision should be reviewed.

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Department of Industry, Innovation, Science, Research and Tertiary Education  
GPO Box 9839  
CANBERRA ACT 2601



or by e-mail to: [FOI@innovation.gov.au](mailto:FOI@innovation.gov.au).

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You must apply in writing and you can lodge your application in one of the following ways:

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Post: GPO Box 2999, Canberra ACT 2601

Fax: +61 2 9284 9666

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

An application form is available on the website at [www.oaic.gov.au](http://www.oaic.gov.au). Your application should include a copy of this notice and your contact details. You should also set out why you are objecting to the decision.

### **Complaints to the 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. The Australian Information Commissioner will make a completely independent investigation of your complaint. A complaint to the Australian Information Commissioner must be made in writing and can be lodged online using the IC Complaint Application form on the Australian Information Commissioner's website at [www.oaic.gov.au](http://www.oaic.gov.au).

Please contact the FOI team on (02) 6102 8108 if you require any clarification. Alternately you may contact them via e-mail at [FOI@innovation.gov.au](mailto:FOI@innovation.gov.au).

Yours sincerely



Mark Durrant  
General Manager  
Automotive and TCF Branch  
Manufacturing Division

/ February 2012