



Attachment A

DECISION RECORD

Request Details

FOI Request FA 16/01/00673
File Number ADF2016/1907

Scope of request

1. On 12 January 2016 you requested:
 - *The national criminal investigation program of works*
 - *Illegal Work Targeting Strategy 2013-2016 (IWTS)*
 - *Compliance strategy 2012-15*
 - *Compliance field prioritisation Matrix 2013-2015*
 - *The fraud control Plan 2013-2015*
 - *The Department's strategic Intent 2013-2016*

Documents in scope

2. Five documents have been identified as being within scope of your request. These are detailed at Attachment B – Schedule of Documents.

Authority to make decision

3. I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate Departmental records.

Information considered

4. In reaching my decision, I have considered the following:
 - The *Freedom of Information Act 1982*;
 - The Departmental documents identified above;
 - Consultations with relevant business areas within the Department; and
 - The Australian Information Commissioner's guidelines relating to access to documents held by government.

Reasons for decision

Section 24A - Requests may be refused if documents cannot be found, do not exist or have not been received

5. Following consultation with the relevant business areas I have determined that the information you seek in point one of your request did not exist in any documents held by the Department at the time of your request.

Section 37(2)(b) – prejudice to law enforcement methods and procedures

6. I have exempted material in documents one, two and four under s.37(2)(b) of the FOI Act.
7. The exempted material comprises examples of actual Department of Immigration and Border Protection investigation methodologies.
8. Document one contains information that would assist parties in employing, conducting, or intending to conduct illegal work, by alerting them to investigation techniques employed by the Department.
9. Document two details tactical and operational information about the Department's compliance targeting strategy. If the information were to be released it would allow parties to circumvent the Department's compliance activities.
10. The release of certain information in document four would assist parties conducting, or intending to conduct, visa fraud by alerting them to investigation techniques employed by the Department.
11. I therefore consider that the disclosure of this material could reasonably be expected to disclose lawful methods or procedures for investigating breaches of the law, the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures. As such, the material is exempted under s.37(2)(b) of the FOI Act.

Section 47E(c) *have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency*

12. Section 47E(c) provides that a document is conditionally exempt if its disclosure under the Act would, or could reasonably be expected to, have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency.
13. The material exempted in document four under s.47E(c) consists of the Department's fraud risk theme profile in relation to assessment of internal fraud committed by its personnel.
14. Release of this information would allow parties to recognise risk themes identified by the Department. If these risk themes were to be published it would result in substantial changes in the Department's procedures in order to avoid jeopardising the effectiveness of methods and procedures used by fraud investigators.
15. On this basis, I am satisfied that release of the information would, or could reasonably be expected to, have a substantial adverse effect on the management and assessment

of personnel by the Department. I am therefore satisfied that the material in issue is conditionally exempt under s.47E(d) of the Act.

Application of the public interest test

16. I acknowledge that release of the documents without the exemptions made under s.47E(c) would promote the objects of the FOI Act, through facilitating and promoting public access to information.
17. I do not consider that release of the information would inform debate on a matter of public importance, promote effective oversight of public expenditure or allow a person to gain access to his or her own personal information.
18. In contrast, I consider that the ability of the Department to reduce the risk of fraud by assessing its personnel in accordance with fraud risk mitigation methodologies, to be in the public interest.
19. Taking into account the above matters, on balance, I consider that disclosure of the information in the documents exempted under s.47E(c) to be contrary to the public interest. Accordingly, I have decided that the documents are exempt in part under s.47E(c) of the FOI Act. The exemptions have therefore been applied to the documents released.

Section 47E(d) – have a substantial adverse effect on the proper and efficient conduct of the operations of an agency


20. Section 47E(d) provides that a document is conditionally exempt if its disclosure under the Act would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.
21. The material exempted under s.47E(d) in documents one, two, three and four consists of compliance strategy, risk rating and resultant risk priority targeting information.
22. Release of this information would allow parties to circumvent the Department's risk mitigation strategies, subsequently reducing the effectiveness of compliance activities.
23. On this basis, I am satisfied that release of the information would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the Department's and other agency operations. I am therefore satisfied that the material in issue is conditionally exempt under s.47E(d) of the Act.


Application of the public interest test

24. I acknowledge that release of the documents without the exemptions made under s.47E(d) would promote the objects of the FOI Act, through facilitating and promoting public access to information.
25. I do not consider that release of the information would inform debate on a matter of public importance, promote effective oversight of public expenditure or allow a person to gain access to his or her own personal information.
26. In contrast, I consider that the ability of the Department to maintain effective compliance activities leading to fraud and illegal work prevention strategies to be in the public interest.

27. Taking into account the above matters, on balance, I consider that disclosure of the information in the documents exempted under s.47E(d) to be contrary to the public interest. Accordingly, I have decided that the documents are exempt in part under s.47E(d) of the FOI Act. The exemptions have therefore been applied to the documents released.

Yours sincerely



Authorised Freedom of Information Decision Maker
Freedom of Information Section
Department of Immigration and Border Protection
Phone 
Email foi@border.gov.au

24 August 2016



Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 16/01/00673

No.	Date of document	Folio	Description	Relevant legislation (FOI Act)	
1.	03/01/2014	1-18	Illegal Work Targeting Strategy 2013 - 16	Released in part	s.37(2)(b) s.47E(d)
2.	N/A	19-37	Compliance Strategy 2012 - 15	Released in part	s.37(2)(b) s.47E(d)
3.	N/A	38	Compliance Field Prioritisation Matrix 2013 - 15	Released in part	s.47E(d)
4.	N/A	39-71	Fraud Control Plan 2013 – 15**	Released in part	s.37(2)(b) s.47E(c) s.47E(d)
5.	N/A	72	Strategic Intent 2013 – 16	Released in full	N/A

** Please note that this document has been superseded and is not regarded as a current document by the Department.

Attachment C – Extract of relevant legislation (FOI Act)

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (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.

Document not received as required by contract

- (2) An agency may refuse a request for access to a document if:
 - (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
 - (b) the agency has not received the document; and
 - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.

37 Documents affecting enforcement of law and protection of public safety

- (2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
 - (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.
- (3) In this section, **law** means law of the Commonwealth or of a State or Territory.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).