



14 September 2017

BY EMAIL: [REDACTED]

In reply please quote:

FOI Request: FA 17/06/00046
File Number: ADF2017/57358

Dear [REDACTED]

Freedom of Information (FOI) request - Access Decision

On 31 May 2017, the Department of Immigration and Border Protection (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

1 Scope of request

You have requested access to the following documents:

All status resolution support service contracts currently operative that the Department of Immigration and Border Protection is party to.

These include, but may not be limited to:

- *Contract CN2616512 published 10/10/2014 with Access Community Services Limited for period 01/09/2014 to 30/06/2018 for value \$15,001,258.14*
- *Contract CN2616622 with Settlement Services International Incorporated for period 01/09/2014 to 30/06/2018 for value \$68,441,148.47*
- *Contract CN2616642 published 10/10/2014 with Adult Multicultural Education Services for period 01/09/2014 to 30/06/2018 for value \$91,173,023.41*
- *Contract CN2616582 published 10/10/2014 with MDA Ltd for period 01/09/2014 to 30/06/2018 for value \$38,335,081.40*
- *Contract CN2616672 published 10/10/2014 with Australian Red Cross Society for*

period 01/09/2014 to 30/06/2018 for value \$144,600,445.63

- Contract CN2616632 published 10/10/2014 with Access Community Services Limited for period 01/09/2014 to 30/06/2018 for value \$1,927,785.00.

On 4 July 2017 you agreed to revise the scope of your request to the following documents:

All status resolution support service contracts currently operative that the Department of Immigration and Border Protection is party to.

These include, but may not be limited to:

- Contract CN2616642 published 10/10/2014 with Adult Multicultural Education Services for period 01/09/2014 to 30/06/2018 for value \$91,173,023.41*
- Contract CN2616672 published 10/10/2014 with Australian Red Cross Society for period 01/09/2014 to 30/06/2018 for value \$144,600,445.63.*

2 Authority to make decision

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 records.

3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the documents relevant to the request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- consultation responses from third parties consulted in accordance with the FOI Act
- advice from Departmental officers with responsibility for matters relating to the documents to which you sought access
- the Department's guidance material on the FOI Act.

4 Documents in scope of request

The Department has identified two documents as falling within the scope of your request. These documents were in the possession of the Department on 31 May 2017 when your request was received.

5 Decision

The decision in relation to the documents in the possession of the Department which fall within the scope of your request is as follows:

- Release two documents in part with deletions

Detailed reasons for my decision are set out below. **Attachment A** is a schedule which describes the relevant documents and sets out my decision in relation to each of them.

6 Reasons for Decision

For the reasons set out below, I have exempted certain information in the documents.

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

6.1 Section 22 of the FOI Act – irrelevant to request

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

On 5 June 2017, the Department advised you that its policy is to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile and work telephone numbers of SES staff, contained in documents that fall within scope of an FOI request.

I have therefore decided that parts of documents marked *s22(1)(a)(ii)* would disclose information that could reasonably be regarded as irrelevant to your request and have therefore prepared an edited copy of the documents, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

The remainder of the documents have been considered for release to you as they are relevant to your request.

7 Section 47E of the FOI Act – Operations of Agencies

Section 47E(d) of the FOI Act provides that documents are conditionally exempt if disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

I consider that the disclosure of parts of Documents 1 and 2 would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the Department.

This information would disclose direct contact details for operational areas within this Department that are not otherwise publicly available. I consider that the disclosure of this information could reasonably be expected to result in potential vexatious communications and general public inquiries being directed to these contact points which these operational areas are not resourced to manage. Given the operational focus of these business areas, I am of the view that such a diversion of their resources to manage potentially vexatious communications and general inquiries into the Department could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of the Department.

Accordingly, I have decided that the documents are conditionally exempt under section 47E(d) of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest at paragraph 8.2 – *The public interest*.

7.1 Section 47F of the FOI Act – Personal Privacy

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information of any person. '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 (see s 4 of the FOI Act and s 6 of the *Privacy Act 1988*).

I consider that disclosure of the information marked s47F in the documents would disclose personal information relating to third parties. The information within the documents would reasonably identify a person, either through names, positions or descriptions of their role or employment circumstance.

The FOI Act states that, when deciding whether the disclosure of the personal information would be 'unreasonable', I must have regard to four factors set out in s.47F(2) of the FOI Act. I have therefore considered each of these factors below:

- *the extent to which the information is well known*
- *whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document*
- *the availability of the information from publicly available resources*
- *any other matters that I consider relevant.*

The information relating to the third parties is not well known and would only be known to a limited group of people with a business need to know. As this information is only known to a limited group of people, the individuals concerned are not generally known to be associated with the matters discussed in the document. This information is not available from publicly accessible sources.

I do not consider that the information relating specifically to the third parties would be relevant to the broader scope of your request, as you are seeking access to Australian Red Cross (ARC) and Adult Multicultural Education Services (AMES) contract details, rather than information which wholly relates to other individuals.

I am satisfied that the disclosure of the information within the documents would involve an unreasonable disclosure of personal information about a number of individuals.

I have decided that the information referred to above is conditionally exempt under section 47F of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest at paragraph 8.2 – *The public interest*.

8 Section 47G(1)(a) of the FOI Act – Business Affairs

Section 47G(1)(a) of the FOI Act permits conditional exemption of documents containing business information where disclosure of that information would, or could reasonably be expected to, unreasonably affect the organisation adversely in respect of its lawful business, commercial or financial affairs.

I have considered that parts of Documents 1 and 2 contain information concerning the business, commercial or financial affairs of an organisation.

The information is in the nature of commercially sensitive information outlining financial arrangements respectively between the Department and the:

- Australian Red Cross
- Adult Multicultural Education Services.

In determining whether disclosure of the information within the documents would or could reasonably be expected to adversely affect the lawful business, commercial or financial affairs of an organisation, I have had regard to the following factors:

- (a) The extent to which the information is well known
- (b) Whether the organisation or undertaking is known to be associated with the matters dealt with in the documents
- (c) The availability of the information from publicly accessible sources
- (d) Any other matters that the Department considers relevant.

The information contained within these documents is not in the public domain and the information is not available from publicly accessible sources, such as the organisations' websites. I am therefore satisfied that the disclosure of the information would, or could reasonably be expected to, unreasonably affect those organisations in respect of their lawful business, commercial or financial affairs.

I have decided that parts of Documents 1 and 2 referred to above, are conditionally exempt under section 47G of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest at paragraph 8.2 – *The public interest*.

8.2 The public interest – section 11A of the FOI Act

As I have decided that parts of the documents are conditionally exempt, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

A part of a document which is conditionally exempt must also meet the public interest test in section 11A(5) before an exemption may be claimed in respect of that part.

In summary, the test is whether access to the conditionally exempt part of the document would be, on balance, contrary to the public interest.

In applying this test, I have noted the objects of the FOI Act and the importance of the other factors listed in section 11B(3) of the FOI Act, being whether access to the document would do any of the following:

- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
- (b) inform debate on a matter of public importance;
- (c) promote effective oversight of public expenditure;
- (d) allow a person to access his or her own personal information.

Having regard to the above:

- I am satisfied that access to the documents would promote the objects of the FOI Act.
- I consider that the subject matter of the documents does not, in itself, seem to have the character of public importance. The matter has a very limited scope and, in my view, would be of interest to a very narrow section of the public.
- I consider that no insights into public expenditure will be provided through examination of the documents.
- I am satisfied that you do not require access to the documents in order to access your own personal information.

Disclosure of all aspects of the documents would not provide a person with sufficient information to assess the rigour or efficiencies of internal decision making processes within the Department, promote scrutiny of government decision making or reveal the reasoning for a government decision. I consider these considerations as neutral.

I have also considered the factors that weigh against the release of the conditionally exempt information in the documents:

- I consider that the ability of the Department to utilise email addresses which are not at risk of being maliciously targeted to be in the public interest.
- The disclosure of the personal information which is conditionally exempt under section 47F of the FOI Act could reasonably be expected to prejudice the protection of those individuals' right to privacy.
- It is my view that it is firmly in the public interest to uphold the rights of individuals to their own privacy. I consider that this factor weighs heavily against disclosure.
- I consider that the disclosure of the parts of the documents that are conditionally exempt under section 47G of the FOI Act could reasonably be expected to prejudice the competitive commercial activities of third party organisations. I consider that this factor weighs heavily against disclosure.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- (a) *access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government*
- (b) *access to the document could result in any person misinterpreting or misunderstanding the document*
- (c) *the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made*
- (d) *access to the document could result in confusion or unnecessary debate.*

I have not taken into account any of those factors in this decision.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the documents is not in the public interest and therefore exempt from disclosure under the FOI Act.

9 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. If you are unable to access the legislation through this website, please contact our office for a copy.

10 Your Review Rights

Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days. Applications for review should be sent to:

By email to: foi.reviews@border.gov.au

OR

By mail to:
Freedom of Information Section
Department of Immigration and Border Protection
PO Box 25
BELCONNEN ACT 2617

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

11 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

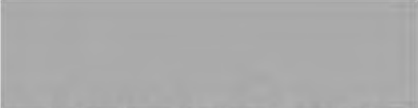
Phone 1300 363 992 (local call charge)

Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Immigration and Border Protection as the relevant agency.

12 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at foi@border.gov.au.



Director, Status Resolution Support Services (SRSS) Contracts and Finance Section
Authorised decision maker
Department of Immigration and Border Protection
Email foi@border.gov.au

ATTACHMENT A

**SCHEDULE OF DOCUMENTS
REQUEST UNDER *FREEDOM OF INFORMATION ACT 1982***

FOI request: FA 17/06/00046

File Number: ADF2017/57358

No	Date of document	No. of pages	Description	Decision on release	
1.	30 June 2015	209	Contract between the Department and the Adult Multicultural Education Services for Status Resolution Support Services.	Partial release	s.22(1)(a)(ii) s.47E(d) s.47F s.47G(1)(a)
2.	30 June 2015	212	Contract between the Department and the Australian Red Cross for Status Resolution Support Services.	Partial release	s.22(1)(a)(ii) s.47E(d) s.47F s.47G(1)(a)