



## Attachment A

### DECISION RECORD

#### Request Details

FOI Request FA 17/06/00943  
File Number ADF2017/69444

#### Original scope of request

1. On 30 June 2017 you requested:

*Statistic of lodgements and grants of business talent visa - venture capital entrepreneur stream.*

*Please include:*

- 1. Information updated up to 29/06/2017*
- 2. Show all yearly applications lodgements & grants statistic from 01/07/2012 until 29/06/2017*
- 3. Please show the name(s) of all venture capital funds, which entered into agreements with applicants who were successfully granted business talent visa - venture capital entrepreneur stream*
- 4. Please show state government sponsor distribution for period 01/06/2012 to 29/06/2017.*

#### Documents in scope

2. The Department has created two documents totalling six pages which answer your request. These documents 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 documents as listed in Attachment C;
  - Consultations with relevant business areas; and
  - The Australian Information Commissioner's guidelines relating to access to documents held by government.

## Decision

5. The relevant business area has advised that data is only available until 31 May 2017.
6. I have decided to release Document 1 in full and to exempt Document 2 in full.

## Reasons for decision

7. Attachment B - Schedule of Documents details the exemptions that have been applied.

Exemptions were applied on the following grounds:

### ***Section 45 - Documents containing material obtained in confidence***

8. Following advice provided by the relevant business area, I have decided that Document 1 is exempt in full under s.45(1) of the FOI Act, on the basis that action could be taken against the Department for breach of confidence.

9. I am satisfied that the exempt document is one to which s.45(2) does not apply.

10. The Australian Information Commissioner's Guidelines state:

*5.159 To found an action for breach of confidence (which means s 45 would apply), the following five criteria must be satisfied in relation to the information:*

- *it must be specifically identified*
- *it must have the necessary quality of confidentiality*
- *it must have been communicated and received on the basis of a mutual understanding of confidence*
- *it must have been disclosed or threatened to be disclosed, without authority*
- *unauthorised disclosure of the information has or will cause detriment*

11. The exempt document is a list of businesses that entered into agreements where a business talent visa was successfully granted. This list was drawn from individual contracts with businesses. These contracts were prepared with a clear and mutual understanding between the businesses and the Department that the details of the businesses were to remain in confidence.
12. The list of businesses, as well as the individual contracts, have retained their confidential nature, in that it is known only to the limited group, being the parties involved in the contracts. I am satisfied that these details are not common knowledge and have not entered the public domain, or been used in such a way that the confidential nature of the contracts have been waived.
13. The contracts were signed by all parties with a clear understanding that the details of the contracts, as well as business names and contacts, were to remain confidential to the parties involved. Release of the names of the businesses would breach the Department's commitment to the parties involved to keep the details of the agents confidential.
14. Consultation with the relevant business area has confirmed that the release of the list of businesses would or could reasonably be expected to damage the Department's relationship with the parties involved. Further, release of the document could potentially lead to legal action being taken against the Department for breach of confidence which could lead to exposure not only to financial detriment but also to public criticism.

15. This assessment is made considering the nature of the information and current advice from the relevant business area regarding the Department's relationship with the concerned third parties.

16. Accordingly, I have decided that Document 1 is exempt in full under s.45 (1) of the FOI Act.

*(signed electronically)*

  
Authorised decision maker  
Department of Immigration and Border Protection  
Email: [foi@border.gov.au](mailto:foi@border.gov.au)

2 August 2017



**Attachment B**

**SCHEDULE OF DOCUMENTS TO DECISION RECORD**

FOI Request FA 17/06/00943  
File Number ADF2017/69444

<b>No.</b>	<b>Date of document</b>	<b>Folio</b>	<b>Description</b>	<b>Relevant legislation (FOI Act)</b>	
1	undated	1-5	Statistics on Business Talent Visa – Venture Capital Entrepreneur Stream (Primary applicants) from July 2012 – May 2017	Released in full	n/a
2	undated	6	List of businesses granted Business Talent Visa – Venture Capital Stream (Primary applicants) from July 2012 – May 2017	Exempt in full	s.45(1)