



Attachment A

DECISION RECORD

Request Details

FOI Request FA 17/02/00939
File Number ADF2017/23632

Original scope of request

1. On 26 February 2017 you requested:

All documents wherein the outcome of any enterprise bargaining ballots were communicated to the department by the entity who undertook the ballots. This shall include the YES/NO vote amounts or percentages as well as any additional information related to the vote. For example, a breakdown of the vote by employee location, or APS level.

*The scope of this request covers any such documents that were received as a result of EBA offers made to staff under:
Workplace Bargaining Policy 2015 or Australian Government Public Sector Workplace Bargaining Policy 2014*

Documents in scope

2. Seven documents, totalling seven pages, within scope of your request have been located by the relevant business area of the Department.

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 released at Attachment B;
 - Consultations with relevant business areas; and
 - The Australian Information Commissioner's guidelines relating to access to documents held by government.

Decision

5. The documents are released to you in part. The exemptions applied are indicated in the documents released (Attachment B). Exemptions were applied on the following grounds:

Exemptions

Section 47F – personal privacy

6. Section 47F(1) of the Act provides:

A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

7. I am satisfied that documents to which you have sought access contain 'personal information', being the identities and other personal information of third parties (employees of the company contracted by the Department to conduct the ballot process).

Disclosure would involve the 'unreasonable disclosure of personal information'

8. In assessing whether a particular disclosure would be 'unreasonable', s.47F(2) sets out a number of factors which the Department must consider. These factors are:

- a) the extent to which the information is well known;
- b) 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;
- c) the availability of the information from publicly accessible sources; and
- d) any other matters that the agency or Minister considers relevant.

9. I consider that the personal information in the document is not known to the applicant or available in the public domain. As such, I consider that disclosure of the personal information in the document would be unreasonable.

10. I therefore find that the material is conditionally exempt under s.47F(1) of the FOI Act.

Application of the 'public interest' test

11. While I have found that the conditional exemption in s.47F(1) of the FOI Act applies to the information outlined above, s.11A(5) of the FOI Act requires me to disclose the information unless access at this time would, on balance, be contrary to the public interest. I will now consider whether disclosure would be contrary to the public interest.

12. In determining whether disclosure would be contrary to the public interest, s.11B(3) sets out a number of relevant factors which point in favour of release. These factors are:

- a) whether release would promote the objects of the FOI Act;
- b) whether release would inform debate on a matter of public importance;
- c) whether release would promote effective oversight of public expenditure; and
- d) whether release would allow a person to access his or her own personal information.

13. I acknowledge that release of the documents would promote the objects of facilitating and promoting public access to information.

14. I consider that release of individual identifying and personal information would not inform debate on a matter of public importance, promote effective oversight of public expenditure or allow a person (the applicant) to access their own personal information.
15. In contrast, I consider that the protection of the individuals' right to privacy should be given the upmost importance.
16. Taking into account the above matters, on balance, I consider that disclosure of the personal information in the documents is contrary to the public interest. Accordingly, I have decided that the documents are exempt in part under s.47F of the FOI Act. The exemptions have therefore been applied to the documents released.

(signed electronically)


Authorised decision maker
Department of Immigration and Border Protection
Email: foi@border.gov.au

30 March 2017