



17 September 2019

**In reply please quote:**

FOI Request: FA 19/05/00304

File Number: ADF2019/149123

**Freedom of Information (FOI) request - Access Decision**

On 01 May 2019, the Department of Home Affairs (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:

*The - Executive Summary's and documents that confirm the 'regional and global priorities' and/or priority caseloads for Australia's Humanitarian Programme 2018 - 2019 including but not limited to drafts, emails and correspondence relating to these lists;*

*A copy of the fully executed Deed of Agreement between the Department of Home Affairs and Approved Proposing Organisations for the Community Support Program, including any prior drafts to the final executed Deed.*

On 29 August 2019 the Department issued you a notice under section 24AB of the FOI Act. On 30 August 2019 the Department received your revision to the scope of your request as follows:

*"... we are seeking to better understand the Community Support Program so that we can more accurately advise our clients.*

*The Deed of Agreement should tell us a great deal and so it is essential we have that document ..."*

*"... the CSP is subject to the Department's Regional and Global priorities lists and this is also a document we must have ..."*

## **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)
- advice from Departmental officers with responsibility for matters relating to the documents to which you sought access

## **4 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:

- Refuse access to one document
- Release 3 documents in part with deletions

## **5 Documents in scope of request**

The Department has identified 3 documents as falling within the scope of your request. These documents were in the possession of the Department on 01 May 2019 when your request was received.

The attached Schedule of Documents describes the relevant documents and sets out my decision in relation to each of them.

## **6 Reasons for Decision**

Detailed reasons for my decision are set out below.

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

### **6.1 Section 24A – No document exists**

Section 24A of the FOI Act provides that the Department may refuse a request for access to a document if all reasonable steps have been taken to find the document and the Department is satisfied that the document does not exist.

I am satisfied that the Department has undertaken reasonable searches in relation to your request for a Regional and Global priorities list and that no document was in the possession of the Department on 01 May 2019 when your FOI request was received. As such I am refusing access to this document requested by you based on the application of section 24A of the FOI Act

## **6.2 Section 22 of the FOI Act – deletion of exempt material**

I find that Section 22 applies to two documents that are within the scope of your request. The grounds upon which the edited copies of these documents have been prepared are set out in the Schedule of Documents.

Two documents contain information that, I consider, can reasonably be regarded as not relevant to the scope of your request as well as personal and contact details of Departmental officers.

In acknowledging your application we advised you of Departmental policy, which is that the personal details of officers who are not in the Senior Executive Service (SES), as well as the mobile and work contact details of SES staff which are contained in documents that fall within scope will be deleted.

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

## **6.3 Section 33 of the FOI Act – Documents affecting National Security, Defence or International Relations**

Section 33(a)(iii) of the FOI Act permits the exemption of a document if disclosure of the document would, or could reasonably be expected to cause damage to the international relations of the Commonwealth.

The FOI Guidelines provide that the phrase "international relations" has been interpreted as meaning the ability of the Australian Government to maintain good working relations with other governments and international organisations and to protect the flow of information between them. The expectation of damage to international relations must be reasonable in the circumstances, having regard to the nature of the information; the circumstances in which it was communicated; and the nature and extent of the relationship. There must be real and substantial grounds for the conclusion that are supported by evidence.

Taking the preceding guidance into account in a review of Document 2, I find that parts of the document contain the Department's priority caseloads for the 2018 / 2019 offshore Humanitarian Program as applicable to the Community Support Program. These priorities are informed by international stakeholders, which include the United Nations High Commissioner for Refugees (UNHCR), State and Territory governments and Non-Government Organisations (NGOs). I consider that there is an ongoing requirement for the input of these, and other, international stakeholders to frame priority caseloads of the Humanitarian Program in future program years.

I consider that the relationship between the Australian Government and the international stakeholders is a long and enduring relationship that must maintain a solid foundation into the future for the successful delivery of the Humanitarian Program. I consider that the Australian Government has relied on a flow of information from international stakeholders in framing its priority caseloads in the 2018 / 2019 program year, and will continue to do so in future program years. I find, therefore, that the release of the information marked 's.33(a)(iii)' in the document would, or could reasonably be expected to, cause damage to the Australian Government's relationship with these stakeholders were this information to be released into the public domain.

#### **6.4 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 release of parts of the documents marked 's.47E(d)' would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the Department.

Documents 1 and 2 provide guidance and assistance to Approved Proposing Organisations (APOs) with meeting their obligations under a Deed of Agreement with the Department of Home Affairs. These documents contain information that is integral to the operations of an APO and to the contractual relationship that exists between an APO and the Department.

I consider that the release of some information within the documents, were it to be applied in unintended ways in the public domain, could have a substantial adverse effect on the Department's operations in as much as these are given effect via the operations of an APO.

Additionally, some information marked 's.47E(d)' consists of operational email addresses or internal contact details used by this Department. These details are not otherwise publicly available, and disclosure of this information could reasonably be expected to result in potential vexatious communication and public inquiries which these operational areas are not resourced to manage. The Department has established channels of communication for members of the public into the Department, and I consider that there is no public interest in disclosing these operational contact details. Given the operational focus of those business areas, such a diversion of the resources of that business area could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of this Department and its partner agencies.

Any disclosure resulting in the prejudice of the effectiveness of the Department's operational methods and procedures would result in the need for this Department, and potentially its law enforcement partners, to change those methods and/or procedures to avoid jeopardising their future effectiveness.

Accordingly, I find 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, and have included my reasoning in that regard below.

## **6.5 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 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.

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

- I consider that the disclosure of internal departmental contact details in the document is information that is conditionally exempt under section 47E(d) as it would have a substantial adverse effect on the operations of the Department. The Department has established channels of communication for members of the public into the Department, and I consider there is no public interest in disclosing these operational contact details.

- I consider there to be a strong public interest in the Department being able to manage its programs effectively towards the attainment of intended, and strategic outcomes and that these outcomes stand to be undermined by the release of certain information contained within some documents.

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 would be contrary to the public interest and it is therefore exempt from disclosure under the FOI Act.

## **7 Legislation**

A copy of the FOI Act is available at <https://www.legislation.gov.au/Series/C2004A02562>. If you are unable to access the legislation through this website, please contact our office for a copy.

## **8 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:

OR  
By email to: [foi.reviews@homeaffairs.gov.au](mailto:foi.reviews@homeaffairs.gov.au)

By mail to:  
Freedom of Information Section  
Department of Home Affairs  
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 <https://www.oaic.gov.au/freedom-of-information/foi-review-process>.

## **9 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](mailto: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 Home Affairs as the relevant agency.

## **10 Contacting the FOI Section**

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at [foi@homeaffairs.gov.au](mailto:foi@homeaffairs.gov.au).

*Signed electronically*

Authorised Decision Maker | Freedom of Information Section  
FOI and Records Management Branch  
Productivity and Compliance Division | Corporate and Enabling Group  
Department of Home Affairs

## ATTACHMENT A

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

**FOI Request:** FA 19/05/00304

**File Number:** ADF2019/149123

No.	Date of document	No. of pages	Description	Decision on release	
1.	-	23	(Final), (Sample) Deed of Agreement between Commonwealth of Australia and Approved Proposing Organisations in relation to the Community Support Program <i>Reporting obligations redacted</i>	Partial	47E(d)
2.	22/01/2019	30	The Community Support Program - Guidelines for Approved Proposing Organisations	Partial	22(1)(a)(ii) 33(a)(iii) 47E(d)
3.	20/12/2018	27	Submission to Minister for Immigration, Citizenship and Multicultural Affairs in relation to the humanitarian visa caseload ( <i>for the 18/19 program year</i> )	Partial	22(1)(a)(ii) 47E(d)