



30 November 2015

In reply please quote:

FOI Request FA 15/10/00715
File Number ADF2015/57107

To Shri Rajen

By email: foi+request-1282-332c2cb4@righttoknow.org.au

Dear S Rajen

Freedom of Information request – decision on request – refusal

1. This letter refers to an access request under the *Freedom of Information Act 1982 (FOI Act)*, received by the Department on 4 October 2015.
2. In this letter, I explain my decision to refuse your request on the basis that the Department has taken all reasonable steps to locate relevant documents, and no such documents exist.

Background to your request

3. In your request, you sought access to the following information:

Under the Freedom of Information Act 1982 (Cth), I wish to access the documents which detail the resettlement of the 12,000 Syrian refugees in SA, NT, & NSW.

I also wish to obtain the correspondence between NSW Premier Mike Baird and NSW Co-ordinator-General for Refugee Resettlement Peter Shergold, regarding the resettlement of the Syrian refugees.

4. On 6 October 2015, I wrote to you to clarify the terms of your request, in particular I provided you with advice that part 2 of the request was not for this Department.
5. You responded on 9 October 2015 to advise that you would proceed with the first part of your request. Therefore, the Department has accepted your revised request to be seeking access to:

Under the Freedom of Information Act 1982 (Cth), I wish to access the documents which detail the resettlement of the 12,000 Syrian refugees in SA, NT, & NSW.

6. Further, I wrote to you again on 26 October 2015 to advise that this Department did not hold relevant documents and provided you with advice on where to send your FOI request. In this correspondence I asked you to consider withdrawing the FOI request from this Department.
7. No response was received and in accordance with the FOI Act the Department has now made a decision on access in relation to your request.

8. According to section 15AA of the FOI Act, the Department must process your request within a 30 day timeframe. I note that your request was due on Tuesday 3 November 2015. The Department apologises for the delay in processing your request.
9. Section 15AC of the FOI Act provides that, by failing to process your request within the 30 day timeframe, the Department is deemed to have refused your access request.
10. However, the Department is continuing to process your request on an administrative basis, and according to the procedures and scheme provided by the FOI Act.

My authority to make this decision

11. I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests for access to documents.

My decision

12. My decision is to refuse access under paragraph 24A(1)(a) and sub-paragraph 24A(1)(b)(ii) of the FOI Act. My reasons are set out below.

Advice received on the existence of relevant documents

13. The Department's Freedom of Information Section (FOI Section) consulted the Humanitarian Programme Management Section (HPM Section) in relation to your request.
14. The HPM Section advised that the Department does not hold relevant documents subject to the terms of your request.

The Department's interpretation of your request

15. Your request refers to documents that would contain information regarding the 'resettlement of the 12,000 Syrian refugees in SA, NT, & NSW'
16. This Department is not responsible for the management of the settlement of refugees once they arrive in Australia. This includes the resettlement of refugees in SA, NT, & NSW.
17. The settlement process of these refugees once in Australia is managed by the Department of Social Services (DSS).
18. The Department approached DSS to transfer your request under the provisions of the FOI Act. At that time they declined to accept the transfer. However, they did advise that you would be welcome to submit an FOI request to them directly for which they would process.
19. Given this information, you may be interested in submitting a new FOI request to DSS directly. DSS is an 'agency' for the purposes of the FOI Act. It maintains its own information page related to FOI requests (at <https://www.dss.gov.au/contact/freedom-of-information>)
20. For the reasons discussed in paragraphs 15–17, and following the FOI Section's consultation with the HPM Section, I am satisfied that 'all reasonable steps' have been taken to locate relevant documents, and that no such documents exist. Therefore, I have decided to refuse your request under section 24A(1) of the FOI Act.

Review rights

Internal review

21. If you disagree with my decision, you have the right to apply for an internal review by the Department of my 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 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.

22. Applications for review should be sent to:

Freedom of Information
Department of Immigration and Border Protection
PO Box 25
BELCONNEN ACT 2617

Or by email to: foi@border.gov.au

Review by the Office of the Australian Information Commissioner

23. You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of my decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a review request to the OAIC, please see FOI fact sheet 12 '*Freedom of information – Your review rights*', available online at www.oaic.gov.au.

How to make a complaint about the handling of this FOI request

24. You may complain to the Australian Information Commissioner if you have concerns about how the Department has handled your request under the FOI Act. Information about how to submit a complaint is also available at www.oaic.gov.au.

Contacting the FOI Section

25. If you wish to discuss this matter, I can be contacted using the details provided below.

Yours sincerely



Authorised decision maker
Freedom of Information Section
Department of Immigration and Border Protection

Email foi@border.gov.au

Attachments:

- Extract from relevant legislation

Extract of relevant legislation

6C Requirement for Commonwealth contracts

- (1) This section applies to an agency if a service is, or is to be, provided under a Commonwealth contract in connection with the performance of the functions or the exercise of the powers of the agency.
- (2) The agency must take contractual measures to ensure that the agency receives a document if:
 - (a) the document is created by, or is in the possession of:
 - (i) a contracted service provider for the Commonwealth contract; or
 - (ii) a subcontractor for the Commonwealth contract; and
 - (b) the document relates to the performance of the Commonwealth contract (and not to the entry into that contract); and
 - (c) the agency receives a request for access to the document.

23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

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.