Attachment A

DECISION RECORD

Request Details
FOI Request FA 14/10/00063
File Number ADF2014/35710

Scope of request

All details of the Save the Children contract for services rendered on Nauru Regional Processing Centres, and all performance reports provided by the organisation to the Department

Documents in scope

1. Save the Children Australia Contract – 1 September 2014 – containing 98 folios.

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 departmental records.

Information considered
In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982;*
- Departmental files and/or documents (identified above); and
- The Australian Information Commissioner's guidelines relating to access to documents held by government.

Reasons for decision
I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

Deletion of exempt or irrelevant material under s.22 of the FOI Act

Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information or material that is irrelevant to the request **and** it is possible for the agency to prepare an edited copy of the document with the irrelevant or exempt material deleted, then the agency must prepare such a copy.

This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reason(s) for each of the deletions in the document (s.22(3) of the FOI Act).

Released by DIBP under the Freedom of Information Act 1982

Exempt material is deleted pursuant to s.22(1)(a)(i) and irrelevant material is deleted pursuant to s.22(1)(a)(ii) of the FOI Act.

On Tuesday 9 December 2014 you wrote to [redacted] to indicate that staff names were irrelevant to the scope of your request. I have deleted staff named under s.22(1)(a)(ii).

The attached Schedule of Documents identifies documents where material has either been deleted as exempt information under the FOI Act or deleted as irrelevant to the scope of the request.

FREEDOM OF INFORMATION ACT 1982 - Section 47
Documents disclosing trade secrets or commercially valuable information

The documents that I have identified as being exempt in part under section 47(1)(b) contain information that would disclose information concerning an organisation in respect of its commercially valuable information.

I have decided that the disclosure of this information would or could reasonably be expected to be destroyed or diminished if the information were disclosed.

After formally consulting with Save the Children Australia (SCA), they have advised that the disclosure of this information would, or could reasonably be expected to, unreasonably affect SCA in respect of its lawful business or commercial activities for the following reasons:

a) *SCA's negotiating position with third parties may be undermined as third parties may not be prepared to accept less favourable conditions with SCA; and*
b) *Competitors for similar services may gain an unfair commercial advantage over SCA if they are aware of the value of SCA's services.*

I am satisfied that release of this information would destroy or diminish commercially valuable information concerning SCA, therefore, I have exempted the information under s.47(1)(b) of the FOI Act.

FREEDOM OF INFORMATION ACT 1982 - Section 47G
Public interest conditional exemptions—business

The information that I have identified as being exempt under section 47G(1)(a) contain information that would disclose information concerning an organisation in respect of its lawful business, commercial or financial affairs.

I have decided that the disclosure of this information would or could reasonably be expected to, unreasonably affect the organisation in its lawful undertakings as there is an expectation that the department would securely maintain any information provided to it.

Having formed the view that release of the documents would or could reasonably be expected to unreasonably affect that organisation, I then considered whether the release would be contrary to the public interest.

Released by DIBP under the Freedom of Information Act 1982

I considered the following factors in favour of disclosure:

- applicants exercising rights under the FOI Act; and
- accountability of departmental procedures.

The arguments I have considered in favour of non-disclosure include:

- it is a core Government concern to maintain the integrity of the information it holds including information relating to the business, commercial and financial affairs of an organisation;
- the department is obliged to take action to prevent the unreasonable disclosure of information that may be of commercial or financial value to an organisation.

I have given greatest weight to the department's obligation to maintain the integrity of the information it holds. This would be contrary to the public interest.

I consider that disclosure of this information would be contrary to the public interest and it is therefore exempt from disclosure under section 47G(1)(a) of the FOI Act.

Authorised decision maker
Freedom of Information Section
Parliamentary & Executive Coordination Branch
Department of Immigration and Border Protection
Telephone
Email foi@immi.gov.au

23 January 2015

Released by DIBP under the
Freedom of Information Act 1982

Australian Government

Department of Immigration and Border Protection

Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 14/10/00063
File Number ADF2014/35710

1. Save the Children Australia contract – 1 September 2014

Folio	Description	Decision	Legislation
1 - 16		Release in Full	
17 - 19	Information that has commercial value to an organisation. Information concerning an organisation in respect of its lawful business, commercial or financial affairs.	Exempt in Part	s.47(1)(b), s.47G(1)(a)
20 - 22		Release in Full	
23 - 24	Information that has commercial value to an organisation. Information concerning an organisation in respect of its lawful business, commercial or financial affairs.	Exempt in Part	s.47(1)(b), s.47G(1)(a)
25		Release in Full	
26	Information that has commercial value to an organisation. Information concerning an organisation in respect of its lawful business, commercial or financial affairs.	Exempt in Part	s.47(1)(b), s.47G(1)(a)
27		Release in Full	
28	Irrelevant material includes a staff name.	Exempt in Part	s.22(1)(a)(ii)
29 - 34		Release in Full	
35	Irrelevant material includes a staff names.	Exempt in Part	s.22(1)(a)(ii)
36 - 54		Release in Full	
55 - 68	Information that has commercial value to an organisation. Information concerning an organisation in respect of its lawful business, commercial or financial affairs.	Exempt in Part	s.47(1)(b), s.47G(1)(a)
69		Release in Full	

Released by DIBP under the Freedom of Information Act 1982

70 - 72	Information that has commercial value to an organisation. Information concerning an organisation in respect of its lawful business, commercial or financial affairs.	Exempt in Full	s.47(1)(b), s.47G(1)(a)
73 - 81		Release in Full	
82 - 83	Information that has commercial value to an organisation. Information concerning an organisation in respect of its lawful business, commercial or financial affairs.	Exempt in Part	s.47(1)(b), s.47G(1)(a)
84 - 88		Release in Full	
89 - 93	Information that has commercial value to an organisation. Information concerning an organisation in respect of its lawful business, commercial or financial affairs.	Exempt in Part	s.47(1)(b), s.47G(1)(a)
94 - 98		Release in Full	

Released by DIBP under the
Freedom of Information Act 1982

Attachment C – Extract of relevant legislation

22 Access to edited copies with exempt or irrelevant matter deleted

Scope

(1) This section applies if:
  (a) an agency or Minister decides:
    (i) to refuse to give access to an exempt document; or
    (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
  (b) it is possible for the agency or Minister to prepare a copy (an ***edited copy***) of the document, modified by deletions, ensuring that:
    (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
    (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
  (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
    (i) the nature and extent of the modification; and
    (ii) the resources available to modify the document; and
  (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

Access to edited copy

(2) The agency or Minister must:
  (a) prepare the edited copy as mentioned in paragraph (1)(b); and
  (b) give the applicant access to the edited copy.

Notice to applicant

(3) The agency or Minister must give the applicant notice in writing:
  (a) that the edited copy has been prepared; and
  (b) of the grounds for the deletions; and
  (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.

(4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.

Released by DIBP under the Freedom of Information Act 1982

47 Documents disclosing trade secrets or commercially valuable information

(1) A document is an exempt document if its disclosure under this Act would disclose:

(a) trade secrets; or

(b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

(2) Subsection (1) does not have effect in relation to a request by a person for access to a document:

(a) by reason only of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs; or

(b) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or

(c) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an organisation where the person making the request is the organisation or a person acting on behalf of the organisation.

(3) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Commonwealth, Norfolk Island or a State or by a local government authority.

Released by DIBP under the
Freedom of Information Act 1982

47G Public interest conditional exemptions—business

(1) A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:

(a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or

(b) could reasonably be expected to prejudice the future supply of information to the Commonwealth, Norfolk Island or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.

(2) Subsection (1) does not apply to trade secrets or other information to which section 47 applies.

(3) Subsection (1) does not have effect in relation to a request by a person for access to a document:

(a) by reason only of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs; or

(b) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or

(c) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an organisation where the person making the request is the organisation or a person acting on behalf of the organisation.

(4) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Commonwealth, Norfolk Island or a State or by a local government authority.

(5) For the purposes of subsection (1), information is not taken to concern a person in respect of the person's professional affairs merely because it is information concerning the person's status as a member of a profession.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

Released by DIBP under the *Freedom of Information Act 1982*