

**THE BUSINESS MIGRATION CENTRE  
SMALL BUSINESS DEVELOPMENT CORPORATION**

**SUBMISSION - INQUIRY INTO THE BUSINESS INNOVATION AND  
INVESTMENT PROGRAM (BIIP)**

**TO:** [jscm@aph.gov.au](mailto:jscm@aph.gov.au)

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**Terms of Reference:**

**1. Assess whether the BIIP is meeting its intended objectives and if any adjustments are necessary:**

A) Meeting intended objectives:

The Western Australian small business sector is a major contributor to the State's economy. There are over 200,000 small businesses throughout the State, which represents 95 per cent of all businesses; and approximately one half of all employment.

In the last four fiscal years to June 2013, the business migrants have injected more than \$1 billion in capital into the State's economy and generated over 1,000 new jobs for Western Australians.

A critical issue faced by this sector throughout the State is under capitalisation. Business migrants are successfully filling this need having a major impact on this feature of the small business economy.

There is no doubt that to date business migrants coming to Western Australia are meeting the economic objectives of the program.

B) Nomination requirements for visa subclass 888 applications:

Currently there is confusion regarding the requirement for State nomination when an applicant applies to convert to the permanent residency visa subclass 888.

The Department of Immigration and Border Protection (DIBP) indicates that providing the State or Territory Government has not withdrawn their nomination, at the time of applying for a subclass 888, the visa applicant is taken to still have a nomination in place.

On the other hand the DIBP form 1414 State/Territory nomination – Business Skills Class for the visa subclass 888 states that Part B of this form must be completed, signed and stamped by your State/Territory agency and lodged with your completed application form.

To alleviate the current confusion and to allow State and Territory Governments to ensure visa subclass 188 applicants meet the business and investment obligations of their nomination and accurately monitor the economic benefit of migrants in their jurisdiction, the DIBP Form 1414 needs to become a compulsory document to be lodged with all applications for a visa subclass 888 – Form 1414 to become part of Schedule 1 requirements and not Schedule 2 as is the case now.

Compulsory nomination at visa subclass 888 application stage will also assist jurisdictions keep in touch with their nominated business migrant clients and assist them to achieve the business or investment intended objectives of the BIIP.

#### C) Visa applicant interview with DIBP Case Manager:

Currently when visa applicants are interviewed in Hong Kong or Australia by the Department of Immigration and Border Protection (DIBP) case officers there is no formal record of the interview – DIBP case officers write a decision letter referring to the issues discussed at the interview based on their interpretation of what was said.

In the interest of transparency and fairness, and because many applicants have different first language than the DIBP case officer, a formal record of the interview would ensure there was no misinterpretation of the interview questions and responses.

As a State nominator in the visa process, the Government of Western Australia is placed in a difficult position when the reporting on the interview in the DIBP case officer decision letter is disputed by the applicant. The State Government needs to make a decision if to support an application to the Migration Review Tribunal. A formal record of the interview would clarify any issues.

Minutes are kept for all formal meetings and recorded electronically; therefore keeping an official record of an interview should not be of concern to either the DIBP case officer or applicant who both would have a copy of their discussion.

#### D) Business Talent Visa 132

The Business Talent Visa 132 is a permanent residency visa designed for high calibre business owners to invest in and manage a business activity that makes a significant economic contribution to the Australian economy.

At 24 months after visa grant, the Department of Immigration and Border Protection (DIBP) monitors visa holders via the Form 1010 to ascertain if they have met the requirements of the visa. The Form 1010 also requires the nominating jurisdiction to sign the form and add any comments regarding the visa holder meeting the intended economic objectives of the visa.

There are concerns that DIBP is allowing 132 visa holders who have not met their economic obligations to their nominating jurisdiction nor have made a significant contribution to the Australian economy continue without further monitoring. There are cases where this has occurred and the 132 visa holders have only made a business investment equivalent or less than the requirements under the temporary residency business visa 188A.

Applicants who do make a significant economic contribution and are not supported by their nominating jurisdiction on the monitoring Form 1010 should be warned by DIBP that unless they meet their economic commitments by year three action will be taken to implement visa cancellation. Nominating jurisdiction should also receive a copy of the warning letter to allow them to assist the visa holder meet their economic commitments to Australia.

In these cases another Form 1010 should be required at the 36 month stage.

**2. Consider the conditions involved in the decline in rates of application for the BIIP, in light of rates of application for the previous Business Skills Program:**

A) Secondary applicant becoming primary applicant:

One of the major factors to impact on the decline in rates of application for the BIIP compared to the previous Business Skills Program is the removal of the ability for the secondary applicant at visa subclass 188 application to become the primary applicant in the application for a visa subclass 888.

Under the previous Business Skills Program a secondary applicant at visa subclass 162 (temporary residency) could become the primary applicant for the visa subclass 892 (permanent residency).

The business activity should be assessed and evaluated on its ability to provide economic benefit rather than on how business operations are shared between the primary and secondary applicants.

This criteria was removed from the current BIIP with no evidence to support the rationale that businesses managed by the primary applicant are more successful than businesses managed by the secondary applicant and should be reintroduced.

B) Lack of coordinated marketing and promotion:

Currently State and Territory Governments operate their own marketing strategies in their prime markets. All jurisdictions would include China as a prime market with most including India, Malaysia, Singapore and South Africa as secondary markets.

Industry and in particular the financial services and property funds are also frequent promoters in these markets. All of Australia's four major banks are represented in these markets.

The current approach is fragmented with jurisdictions and industry doing their own individual promotions and the Department of Immigration and Border Protection doing very little due to budget restrictions. A coordinated approach to marketing the visa program in key markets outside China to broaden the client base would achieve much improved results.

This approach could take the form of:

- Specialist Business Visa Expos coordinated by the Department of Immigration and Border Protection (DIBP) and paid for by the exhibitors in key cities in prime market countries;
- Exhibitors made up of Federal, State and Territory Governments, migration service providers and representatives of complying investments;
- Titled under an all Australia name such as "Australia – Open For Business" or similar and to stage six events over a full program year; and
- As the targeted markets are high net-worth investors, the layout of the expo should be in the form of a business lounge rather than booths.

An Australian Government and industry coordinated marketing approach to promoting this visa program will require some flexibility in the visa numbers allocated for SIVs, with the ability to increase the numbers based on the success of the promotion.

**3. Evaluate the current eligibility criteria, with particular regard to the operation of the BIIP points test, and its effectiveness in selecting suitable migrants:**

Points test:

A points test style of assessment process tends to assess the individual rather than business skills and attributes. This method is a suitable tool for assessing skilled migrants where age, English language ability and qualifications form the core factors for qualification; however, it is not an appropriate method of determining a business skills qualification where the core factors are in non personal areas such as business turnover and assets. A points test becomes too prescribed for assessing business skills and tends to favour personal attributes rather than business achievements.

It was also evident that there was only limited support for the reintroduction of the points test from State and Territory Governments and industry, as evidenced in the feedback to the Department of Immigration and Citizenship discussion paper released in July 2010.

In particular, it was noted that the rationale and research cited in the case for introducing age, English language ability and qualifications as assessments for the Business Skills Program was based on the benefits achieved by this method of assessment for skilled migrants coming to Australia to seek employment.

It is reasonable that aspiring skilled migrants should be assessed for these attributes when seeking the opportunity to be employed in Australia; and this approach both benefits potential employers and addresses the nation's skilled labour needs. However, in the context of assessing the potential contribution of a migrant in terms of business growth, investment and job creation there is little value in this approach as it cannot offer any assessment of business skill or success of business owners and investors; and should be removed from the BIIP.

B) Assessment of financial criteria:

In business the assessment of financial data and statements is a professional occupation undertaken by people with professional qualifications such as members of CPA Australia or the Institute of Chartered Accountants.

Currently Department of Immigration and Border Protection (DIBP) case officers without the professional financial qualifications and or experience are assessing the financial criteria on visa applications.

In line with the DIBP policy to have a professional panel of doctors assess the health criteria of visa applicants, a panel of qualified financial professionals be appointed to assess the financial criteria.

As is the case for the health criteria assessment, the cost of assessing the financial criteria would be met by the visa applicant.

**4. Weigh the size of the current BIIP program against the emphasis placed on other elements of the skilled stream of the migration program in generating economic growth:**

The economic outcomes in Western Australia confirm business migrants are continuing to make a significant contribution to the State's economic prosperity as a leading source of new capital, investment, business establishment, export income and employment generation.

For the 2013/14 financial year the injection of new capital into the State's economy is estimated to exceed \$275 million and generate over 300 new jobs.

Based on the ability of business migrants to generation economic growth it is recommended that the planning level for the BIIP be set annually at 10 per cent of Australia's overall migration program.