



19 January 2022

Tharun Thatikonda

BY EMAIL: foi+request-8194-e134afa7@righttoknow.org.au

In reply please quote:

FOI Request: FA 21/12/00518

File Number: ADF2020/61138

Dear Tharun,

Freedom of Information (FOI) request - Access Decision

On 13 December 2021, 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.

You have requested access to the following documents:

I request to provide information regarding total number of approved nominations by state of New South Wales under subclass 190 visa till date in this financial year along with below details.

- 1) *Nominations approved month wise.*
- 2) *Approved nominations along with occupation wise details and points related to it.*

1 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.

2 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the document 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 document to which you sought access

3 Document in scope of request

The Department has consulted with the relevant area of the business in relation to the documents you have requested access to and finds no relevant document holdings.

Searches

The Department does not hold an existing discrete document that contains the data you are seeking.

The Department has considered whether it can extract this data in accordance with section 17(1) of the FOI Act.

The obligation for retrieving or collating information stored in a computer system arises if:

- the Department could produce a written document containing the information using a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information, and
- producing a written document would not substantially and unreasonably divert the resources of the agency from its other operations (s17(2))

In *Collection Point Pty Ltd v Commissioner of Taxation* the full bench of the Federal Court decided that if a new computer program is required to be written to produce the document then a computer is not being used in a manner that is ordinarily available to the agency because an extraordinary step is required to be taken (*Collection Point Pty Ltd v Commissioner of Taxation* [2013] FCAFC 67 [20]).

The Department's ordinary use of computer systems includes measures to provide the public with access to Expression of Interest (EOI) data. The Department maintains a dashboard on its SkillSelect website to provide regular updates on EOI data: <https://immi.homeaffairs.gov.au/visas/working-in-australia/skillselect>

To compile the information you have requested into a discrete document would require that additional and extraordinary measures be undertaken. This is not what section 17 of the FOI Act requires. Section 17 only requires a new document to be created when it is possible to do so using a computer or other equipment to extract data.

The data you have requested is of a detail that cannot be reported on from the Department's computer systems. Either the data is not collected to that level of detail, or it is not possible to extract the data using a computer system in a manner that is ordinarily available to it.

I am satisfied that the Department is not able to produce a written document containing the information you seek in your request in a discrete form using a computer or other equipment ordinarily available to it.

Having regard to your request and the types of document that may fall within the scope of your request I am satisfied that the searches conducted were extremely thorough and all reasonable steps have been taken to locate any document relevant to your request.

4 Decision

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 your request and that no documents were in the possession of the Department on 13 December 2021 when your FOI request was received. As such, I am refusing your request based on the application of section 24A of the FOI Act.

5 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.

6 Your Review Rights

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>.

7 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

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.

8 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.

Signed electronically

Joanne

Position number 60100057

Authorised Decision Maker | Freedom of Information Section

FOI and Records Management Branch

Data Division | Strategy and National Resilience Group

Department of Home Affairs