



07 February 2022

Vekariya, Manthan

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In reply please quote:

FOI Request: FA 21/12/00587

File Number: OBJ2021/36200

Dear Manthan Vekariya,

Freedom of Information (FOI) request - Access Decision

On 15 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:

- 1) *Invitations issued for subclass 189 (points tested) by activity month for the months of March 2019 until 1st December 2021 for ANZSCO 233311 (Electrical Engineer).*
- 2) *Invitations issued with 95 points for subclass 190 (points tested), as an image dated from 04 January 2020 until 1st December 2021 for ANZSCO 233311 (Electrical Engineer) in the state of NSW without a job offer.*
- 3) *491 Invitations issued to the people at 105 points who were living in metropolitan region in the state of NSW for ANZSCO 233311 (Electrical Engineer) during 2021-22.*
- 4) *Invitations issued with 95 points for subclass 190 (points tested), as an image dated from 04 January 2020 until 25 November 2021 for ANZSCO 233311 (Electrical Engineer) in the state of NSW.*
- 5) *Visa applications Granted for subclass 189 (points tested) by activity month for financial years 2019/2020 and 2020/2021 for ANZSCO 233311 (Electrical Engineer).*
- 6) *Invitations issued with 95 points for subclass 190 (points tested), as an image dated from 01st July 2021 until 25 November 2021 for ANZSCO 233513 (Production or Plant Engineer) in the state of VIC.*
- 7) *Invitations issued at 90 points for subclass 189 (points tested) by activity month for the months of March 2020 until 25 October 2021 for ANZSCO 233513 (Production or Plant Engineer) and did they have a job offer or it was solely based on points?*
- 8) *Also, could you please forward me the details of on hand NSW onshore and offshore applications for subclass 189 & 190 for ANZSCO 233311 (Electrical Engineer) at 90, 95 and 100 Points.*
- 9) *Number of EOI lodged in ANZSCO 233311 (Electrical Engineer) at 90 points onshore and offshore till 15-12-2021.*

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 areas of the business in relation to the documents you have requested access to and finds 1 document relevant to point 5 of scope, and no relevant document holdings relating to other points of scope.

4 Document in scope of request

In accordance with section 17 of the FOI Act, the Department has used its computer system to produce one document that contains information that falls within the scope of point 5 of your request. The data produced in the document existed in the possession of the Department on 15 December 2021 when your FOI request was received.

5 Decision

The decision in relation to the document in the possession of the Department which fall within the scope of your request is as follows:

- Release one document in full

The decision in relation to all other points of the scope of your request is as follows:

- Refuse access in full

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 (s 17(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.

6 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 15 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.

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

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

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.

Signed electronically

Glen

Position number 60081621

Authorised Decision Maker | Freedom of Information Section

FOI and Records Management Branch

Data Division | Strategy and National Resilience Group

Department of Home Affairs