



14 June 2017

In reply please quote

FOI Request: FA 17/14/00226

File Number: ADF2017/27608

Dear [REDACTED]

Freedom of Information request – decision on request

This letter refers to your request received on Thursday, 30 March 2017 seeking access under the *Freedom of Information Act 1982* (the Act) to the following:

Statistics of Subclass 457 Visa refusal decisions and tribunal review decisions:

For "1/1/2015 - 31/12/2015" and "1/1/2016 - 31/12/2016"

- (1) In each of the above periods, the total number of Subclass 457 "NOMINATION" applications validly lodged to the DIBP;*
- (2) In each of the above period, the total number of Subclass 457 "NOMINATION" applications DISAPPROVED by the DIBP, AND, in its reasoning the decision maker found that himself or herself did NOT satisfy of the Migration Regulations clause 2.72(10)(f) which is known as the "Genuine Position" criterion was met;*
- (3) Out of the above refused 457 Nomination Applications and in each of the period, the total number of applications lodged to the AAT (migration tribunal) for a review of the Nomination refusal decision.*
- (4) Out of the above AAT review applications and in each of the period, the total number of decisions resulted in clause 2.72(10)(t) which is known as the "Genuine Position" criterion, was found to have been satisfied by applicant."*

Authority to make decision

I am an officer authorised under section 23 of the *Freedom of Information Act 1982* (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 terms of your request
- The *Freedom of Information Act 1982*
- Departmental files identified
- The Australian Information Commissioner's guidelines relating to access to documents held by government
- Consultations with the relevant business areas in the Department

Legislation

A copy of the FOI Act is available for your reference from www.legislation.gov.au/Browse/ByTitle/Acts/InForce/0/0/Principal

Documents in scope

Section 17 of the FOI Act provides that where an agency can produce a written document containing the information in discrete form by the use of a computer, and the work required would not substantially and unreasonably divert resources of the agency from its other operations, the agency shall deal with the request as if it were a request for access to a written document so produced.

The Department has created one document that is relevant to the scope of your request. The document is provided in full at Attachment A – Documents Released.

Decision on access

The Department has undertaken reasonable searches to identify any documents that would be relevant. After consulting with the relevant business area I am satisfied that all relevant documents (electronic or hard copy) in possession of the Department that fall within the scope of your request are provided to you.

Part 1:

In accordance with section 17 of the FOI Act, the Department has used its computer system to produce one document that contains the requested information. The data produced in this document was in possession of the Department on Thursday, 30 March 2017 on receipt of your request. My decision is to release the document in full.

Parts 2, 3 and 4:

No discrete document currently exists in the possession of the Department that contains the data you have sought in parts 2, 3 and 4 of your request.

The Department is not able to produce the data from its computer systems as the data is not captured by the Department in a way that could be reported on. Whilst the data you have requested may exist within the Department's computer systems, the work required to produce that data would interfere unreasonably with the operations of the Department. I am satisfied that the Department is not required to produce a document by use of a computer under section 17 of the FOI Act.

Access to the information you have requested in parts 2, 3 and 4 of your request is therefore refused under section 24A(1) of the FOI Act.

Review rights

Internal review

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.

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.reviews@border.gov.au

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 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 your FOI request

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

If you wish to discuss this matter, you may contact me 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

- Attachment A – Documents Released