



18 October 2018

[REDACTED]

In reply, please quote:

FOI Request: FA 18/09/00263-R1
File Number: ADF2018/197895

Dear [REDACTED]

Freedom of Information (FOI) – Decision on Internal Review

This letter refers to your request for internal review, received on 18 September 2018, of a decision made by the Department of Home Affairs (the Department) under the *Freedom of Information Act 1982* (the FOI Act). Your request for internal review relates to the access decision made on 13 September May 2018, departmental reference number: FA 18/02/00263.

1 Scope of request

The scope of your original request for access to documents under the FOI Act was as follows:

Salary Data Relating to Subclass 457/482 Visas Granted to Primary Applicants with Occupations in ANZSCO Minor Group 233 'Engineering Professionals'

Overview of Information Required

I am seeking to obtain salary data about the following two temporary visa subclasses issued to primary applicants in ANZSCO Minor Group 233 'Engineering Professionals':

- *Temporary Work (Skilled) visa (subclass 457)*
- *Temporary Skills Shortage visa (subclass 482)*

I am seeking this information for the 2016-17 and 2017-18 financial years only. I am not seeking data that can be specifically identified with any of the 21 engineering occupations in ANZSCO Minor Group 233. Rather, I am seeking grouped (or combined) data for all occupations in ANZSCO Minor Group 233 'Engineering Professionals' - i.e. data at the three digit level.

Specific Information Required

For the nominated visa(s) granted to all primary applicants in ANZSCO Minor Group 233 'Engineering Professionals':

2016-17

1. Subclass 457 Visa (for 2016-17)

1.1 For onshore applications

- 1) 1.1.1 The number of visas granted to primary applicants with reported salaries less than the Temporary Skilled Migration Income Threshold of \$53,900.
- 2) 1.1.2 The median reported salary of primary applicants granted visas in each five year age block between age 20 and age 60, i.e. the median salary of those aged 20-24, 25-29, 30-34 and so on up to the 55-59 age block.

1.2 For offshore applications

- 3) 1.2.1 The number of visas granted to primary applicants with reported salaries less than the Temporary Skilled Migration Income Threshold of \$53,900.
- 4) 1.2.2 The median reported salary of primary applicants granted visas in each five year age block between age 20 and age 60, i.e. the median salary of those aged 20-24, 25-29, 30-34 and so on up to the 55-59 age block.

2017-18

2. Subclass 457 Visa (for 2017-18)

2.1 For onshore applications

- 5) 2.1.1 The number of visas granted to primary applicants with reported salaries less than the Temporary Skilled Migration Income Threshold of \$53,900.
- 6) 2.1.2 The median reported salary of primary applicants granted visas in each five year age block between age 20 and age 60, i.e. the median salary of those aged 20-24, 25-29, 30-34 and so on up to the 55-59 age block.

2.2 For offshore applications

- 7) 2.2.1 The number of visas granted to primary applicants with reported salaries less than the Temporary Skilled Migration Income Threshold of \$53,900.
- 8) 2.2.2 The median reported salary of primary applicants granted visas in each five year age block between age 20 and age 60, i.e. the median salary of those aged 20-24, 25-29, 30-34 and so on up to the 55-59 age block.

3. Subclass 482 Visa (for 2017-18)

3.1 For onshore applications

- 9) 3.1.1 The number of visas granted to primary applicants with reported salaries less than the Temporary Skilled Migration Income Threshold of \$53,900.
- 10) 3.1.2 The median reported salary of primary applicants granted visas in each five year age block between age 20 and age 60, i.e. the median salary of those aged 20-24, 25-29, 30-34 and so on up to the 55-59 age block.

3.2 For offshore applications

- 11) 3.2.1 The number of visas granted to primary applicants with reported salaries less than the Temporary Skilled Migration Income Threshold of \$53,900.

- 12) 3.2.2 *The median reported salary of primary applicants granted visas in each five year age block between age 20 and age 60, i.e. the median salary of those aged 20-24, 25-29, 30-34 and so on up to the 55-59 age block.*

2 Original decision on access

The decision made in relation to your original request was to refuse access to the requested data, in full, under section 24A(1)(a)(ii) of the FOI Act. This decision was made on the basis that the decision maker undertook reasonable searches, but concluded that the Department does not hold data relating to salaries of visa applicants. The decision maker therefore formed the view that the data does not exist.

3 Request for internal review

On 18 May 2018, you requested that the Department review its original decision. You provided the following submissions with your request for internal review:

I wish to apply for an internal review of the rejection of my FOI Request FA 18/09/00263. The reasons for the rejection were stated by the Department of Home Affairs (DHA) to be as follows:

"The Department has undertaken reasonable searches in relation to the data you have requested access to. The Department does not hold data relating to salaries of visa applicants, therefore, no documents exist within the scope of your request."
I believe this statement is incorrect. Salary data are integral to applications for the subclass 482 visa, and the subclass 457 visa before that. See for example the following link on the DHA website: <https://www.homeaffairs.gov.au/trav/visa-1/482-?modal=/visas/supporting/Pages/482/document-checklist-nominations.aspx>

Furthermore, the Department of Immigration and Border Protection (DIBP) released salary data of subclass 457 visa grants to The Australian Population Research Institute (TAPRI) in 2016. See Appendix 1 (Table A1, p.17) in the attached report by TAPRI. In this same report on page 6, the TAPRI authors stated:

"We know this is the case because the Department of immigration and Border Protection (DIBP) provided unpublished data on the nominated base salary levels for those granted 457 visas in 2014-15 for the two largest of IT professions identified in Table 1, that is, ANZSCO 2611 ICT analysts and 2613 programmers.² This data has not previously been released. Sponsors have to tell DIBP what the salary level of each 457 sponsored professional will be."

The salary data provided to TAPRI covered the period from 1 July 2012 to 31 December 2015.

I believe DHA does have the data I am seeking, and I am therefore seeking an internal review of the Department's decision.

4 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.

5 Relevant material

In reaching my decision on your internal review request, I have considered the following:

- The submissions provided with your internal review request;
- The documents relevant to the scope of your internal review request;
- The FOI Act;
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines); and
- Advice from departmental officers with responsibility for matters relating to the documents to which you sought access.

6 Internal review decision-making process

I have considered the submissions made by you in relation to your reasons for requesting an internal review, and have conducted a review into the processing of FA 18/09/00263, including the access decision issued on 13 September 2018.

As part of this process, further consultations with the relevant departmental business area were undertaken. The relevant business area conducted additional reasonable searches to identify any data relevant to the scope of your internal review.

Based on responses provided to FOI by the business area, I have decided to set aside the original FOI decision and make a new decision on your request.

Given the intricate nature of your original request, the Department requires additional time to produce the full range of relevant data.

I therefore propose to make interim tranche decisions on your request. At this stage, I propose to make two tranche decisions, as explained below.

7 Tranche 1 decision

Further consultations with the relevant business area resulted in the business area identifying, within departmental systems, the data described in paragraphs 1, 3, 5, 7, 9 and 11 of your original request.

In accordance with section 17 of the FOI Act, the Department has used its available computer systems to produce one (1) discrete document that captures that data. The data reflects the number of visas granted to primary applicants with reported salaries less than the Temporary Skilled Migration Income Threshold of \$53,900, for visa subclasses 457 and 482, for both onshore and offshore applications, for the 2016-17 and 2017-18 financial years.

The discrete document referred to above will be the subject of **Tranche 1**.

The relevant business area has advised that the extraction of additional data to satisfy the full scope of your request will take additional time.

The additional data, once produced into discrete document form, will be the subject of **Tranche 2**. I propose to finalise Tranche 2 in late November / early December 2018, as confirmed in my email correspondence dated 17 October 2018.

I will make a final consolidated decision on your internal review request at the completion of the staged tranche decision-making process. This will include a consolidated notice of decision and a schedule of all discrete documents in response to your internal review request.

The statutory time limits for review of the Department's internal review decision will commence upon receipt of my final consolidated decision.

8 Decision on Tranche 1 document

I am satisfied that the data contained in the discrete document produced for Tranche 1 falls within the scope of your request, and was in the possession on the Department on 18 September 2018, when your request for internal review was received.

The decision made in relation to this discrete document is to:

- Release one document in full.

9 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>

If you are unable to access the legislation through this website, please contact our office for a copy.

10 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 my final consolidated 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 <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

11 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.

12 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Reviews Team at foi.reviews@homeaffairs.gov.au

Yours sincerely,



Authorised Decision Maker
Freedom of Information (FOI) Section
Department of Home Affairs