

Date original decision is due: 7 January 2020. - AFOI-ER/19/10003

Complainant

Street Address Case

Caller Phone Details

After Hours Phone

Business Phone

Mobile Phone

Fax

Email

Date of Birth

Organisation

Phone

Receipt Details

File Type:	Not Applicable	Received Date:	17-Dec-19 3:33 PM
Case Type:	Not Applicable	Received By:	Le, Julie
		Registered Date:	17-Dec-19 3:33 PM
TimeSpent:	0(to date)	Registered By:	Le, Julie
Owned By:	Le, Julie	Status:	Closed
Team:	ACT Strategy and FOI		

Co Complainant

RoleHolder

Le, Julie

Role

Last Action Assigned Officer

Applicant Person

Stage

Stage

Stage

Stage

Current Stage

Comment

Justice and Community Safety Directorate

Agency

Hotham, Emma

Agency Contact

Summary

Date original decision is due: 7 January 2020.

Agency has requested for an EOT of 10 working days to process an access application for "Copy of the tender put out by the ACT government for Tenant Services"

The FOI applicant has declined an EOT for an additional 10 days processing time. Business units have raised concerns re: disclosure of information:

- undermine the deliberative process of a particularly sensitive tender that has yet to be evaluated. The request for tender was a select tender that went to three suppliers. There has been considerable media coverage around this tender process and members of the public may have the impression that the tender

request documents had been made publicly available on the Tenders ACT site, when they have not been.

- undermine this procurement that could result in needing to undertake a new procurement process and a significant waste in government resources should this happen.

- JACS Directorate is now in the process of seeking urgent legal advice from the ACT Government Solicitor to provide advice on this issue. However, due to the Christmas shutdown and staff leave the likelihood of receiving this legal advice, processing the request and giving the Information Officer time to deliberate on this request and meet the original deadline of 7 January 2020 is unlikely.

ISSUES

Issues

Cause

Outcome

Actions

Action	Contact	Assign To	Due Date	Completed By	Completed	Status	Time
New Incoming Document Attached	/	Le, Julie	18-Dec-19 3:37 PM	Le, Julie	17-Dec-19 3:38 PM		0
20191217 EMail 01.msg	01. Email from agency - EOT request						
Case Ownership Changed	/	Le, Julie	17-Dec-19 3:39 PM	Le, Julie	17-Dec-19 3:39 PM		
Assigned to 'Le, Julie' by 'Le, Julie'							
New Incoming Document Attached	/	Le, Julie	20-Dec-19 1:42 PM	Le, Julie	20-Dec-19 2:11 PM		0
20191219 EMail 02.msg	02. Email from agency - response to RFI						
Assess Application	/	Le, Julie	24-Dec-19 3:36 PM	Le, Julie	20-Dec-19 3:31 PM	S42 - Further time required to make decision	0
Is Valid Application?	/	Le, Julie	27-Dec-19 3:31 PM	Le, Julie	20-Dec-19 3:31 PM	Valid Application	0
New Incoming Document Attached	/	Le, Julie	23-Dec-19 3:30 PM	Le, Julie	20-Dec-19 3:31 PM		0
20191220 EMail 01.msg	03. Email from agency - acknowledging s 42 notice receipt						
Initial Assessment	/	Le, Julie	25-Dec-19 3:31 PM	Le, Julie	20-Dec-19 3:32 PM		0

Further info required - applicant name and contact details, whether other EOTs have been negotiated, date of receipt of access application. Sent email to agency - RFI

Assess Valid Application	/	Le, Julie	27-Dec-19 3:32 PM	Le, Julie	20-Dec-19 3:32 PM	0
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RFI response rec'd - discussed with EL2 - short EOT requested to seek legal advice

Determination	/	Le, Julie	27-Dec-19 3:32 PM	Le, Julie	20-Dec-19 3:32 PM	0
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Prepare Draft Determination Letter	/	Le, Julie	27-Dec-19 3:32 PM	Le, Julie	20-Dec-19 3:33 PM	0
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Draft s 42 notice granting EOT to 17 January 2020

QA Review	/	Le, Julie	27-Dec-19 3:33 PM	Le, Julie	20-Dec-19 3:33 PM	Approved	0
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Cleared by EL2

Made a few changes – see what you think

Send Determination Letter	/	Le, Julie	27-Dec-19 3:33 PM	Le, Julie	20-Dec-19 3:34 PM	0
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Notified agency of EOT grant to 17 January 2020

Close FOI Extension	/	Le, Julie	27-Dec-19 3:34 PM	Le, Julie	23-Dec-19 4:45 PM	0
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New Incoming Document Attached	/	Le, Julie	25-Dec-19 9:43 AM	Le, Julie	24-Dec-19 11:37 AM	0
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20191224 EMail 01.msg	04. Email from FOI applicant
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Officer

Office: Canberra

External References

Filename	Comments
20191217 EMail 01.msg	01. Email from agency - EOT request
20191217 EMail 02.msg	01. Email to agency - acknowledgement
20191219 EMail 01.msg	03. Email to agency - request for further information
20191219 EMail 02.msg	02. Email from agency - response to RFI
AFOI ER 19 10003 - s 42 notice.docx	02. Section 42 notice
AFOI ER 19 10003 - s 42 notice to FOI applicant.docx	04. Section 42 notice to FOI applicant
20191220 EMail 01.msg	03. Email from agency - acknowledging s 42 notice receipt
20191223 EMail 01.msg	05. Email to agency - encl s 42 notice
20191223 EMail 02.msg	06. Email to FOI applicant - encl s 42 notice
2019-12-24T081745 email.eml	07. Email to Intake - requesting appropriate allocation
20191224 EMail 01.msg	04. Email from FOI applicant

Cross References**Case****Comments**

2020-100087

Additional AgencySection ADD_AGENCY either doesnt exist or has no data or detail area properly defined

Closure Details

Closed On: 23-Dec-19 4:45 PM

Closed By: Le, Julie

Security Level

50

Gregory Parkhurst

From: JACS FOI <JACSFOI@act.gov.au>
Sent: Friday, 13 December 2019 3:37 PM
To: ACTFOI
Subject: FOI: Request for an extension - Ombudsman - 2958

Follow Up Flag: Follow up
Flag Status: Flagged

UNCLASSIFIED For-Official-Use-Only

Good afternoon

As discussed earlier with an officer from the ACT Ombudsman FOI team, the Justice and Community Safety (JACS) Directorate is seeking an extension of time in relation to the following FOI.

In their request the applicant sought:

“Copy of the tender put out by the ACT government for Tenant Services”

A response is due on **7 January 2020**. I emailed the applicant today seeking an extension of 10 working days to process this FOI request, which would make the response due to them on **17 January 2020**. The applicant has responded saying they do not agree to the extension request.

Our Legislation, Policies and Programs area who has carriage of this work within JACS contacted me earlier to advise that they have a copy of the tender request documents (from Tenders ACT) but are concerned that release of the material could undermine the deliberative process of a particularly sensitive tender that has yet to be evaluated. The request for tender was a select tender that went to three suppliers. There has been considerable media coverage around this tender process and members of the public may have the impression that the tender request documents had been made publicly available on the Tenders ACT site, when they have not been.

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It is for the above reasons we are seeking an extension of time and consider 10 extra working days to a reasonable amount of additional time. I look forward to hearing from you.

Please do not hesitate to contact me if you have any follow up questions or would like some more information from me.

Kind regards
Emma

Emma Hotham | Assistant Director – Freedom of Information
Phone: +61 2 6207 0811 | Email: emma.hotham@act.gov.au

Justice and Community Safety Directorate
Governance, Coordination and Reporting
Ground Floor, 12 Moore Street, Canberra City | GPO Box 158 Canberra ACT 2601

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Gregory Parkhurst

From: JACS FOI <JACSFOI@act.gov.au>
Sent: Thursday, 19 December 2019 1:20 PM
To: ACTFOI
Subject: RE: Request for an extension - Ombudsman - 2958 (Ombudsman reference: AFOI-ER/19/10003) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Julie

Thank you for your email. In response to the questions asked, I can advise that:


- The access application was received by JACS on 3 December 2019. Initially it was unclear as to who should action this FOI, whether it was Tenders ACT (CMTEDD) or JACS. I contacted CMTEDD for advice on 4 December 2019 and received a response on 9 December 2019 from CMTEDD advising that it was a JACS FOI.
- No, JACS has not negotiated any previous extensions of time for this access application with the applicant.

The applicant is [REDACTED] and his email address is [REDACTED]

Please let me know if you need any further information.

Kind regards
Emma

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From: ACTFOI <ACTFOI@ombudsman.gov.au>
Sent: Thursday, 19 December 2019 12:59 PM
To: JACS FOI <JACSFOI@act.gov.au>
Subject: RE: Request for an extension - Ombudsman - 2958 (Ombudsman reference: AFOI-ER/19/10003) [SEC=UNCLASSIFIED]
Importance: High

Dear Emma

Thank you for your email.

Before the delegate can make a decision, they would like to clarify:

- When was the access application received by JACS?
- Has JACS negotiated any previous extensions of time with the applicant relating to this access application?

Can you please provide the applicant's name and one form of contact for the applicant as we will also need to notify the applicant if an extension of time is granted.

Please provide the above information as soon as possible. I can be contacted on the below details if you have any questions.

Kind regards

Julie
Senior Merits Review and Case Officer
ACT Strategy and FOI
ACT Ombudsman

Phone: (02) 6276 3773
Email: actfoi@ombudsman.gov.au
Website: ombudsman.act.gov.au

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#diversitygoeswithme 

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Please do not hesitate to contact me if you have any follow up questions or would like some more information from me.

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Gregory Parkhurst

From: JACS FOI <JACSFOI@act.gov.au>
Sent: Friday, 20 December 2019 3:03 PM
To: ACTFOI
Subject: RE: HPE CM: RE: Request for an extension - Ombudsman - 2958 (Ombudsman reference: AFOI-ER/19/10003) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Julie

Thank you for your email and the advice of the extension.

Have a wonderful Christmas and break when you get to it.

Kind regards
Emma

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From: ACTFOI <ACTFOI@ombudsman.gov.au>
Sent: Friday, 20 December 2019 2:26 PM
To: JACS FOI <JACSFOI@act.gov.au>
Subject: HPE CM: RE: Request for an extension - Ombudsman - 2958 (Ombudsman reference: AFOI-ER/19/10003) [SEC=UNCLASSIFIED]

Dear Emma

Thank you for your reply email.

Please find attached correspondence from the delegate agreeing to extend the processing time to 17 January 2020.

Kind regards

Julie
Senior Merits Review and Case Officer
ACT Strategy and FOI
ACT Ombudsman

Phone: (02) 6276 3773
Email: actfoi@ombudsman.gov.au
Website: ombudsman.act.gov.au

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The applicant is [REDACTED] and his email address is [REDACTED]

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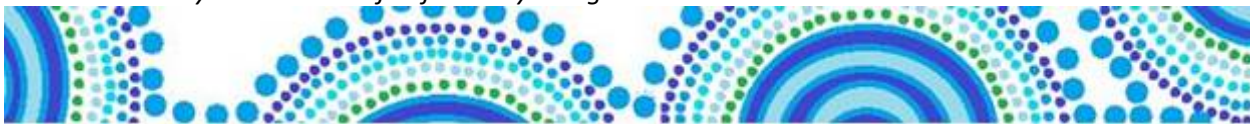
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Gregory Parkhurst

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Sent: Tuesday, 17 December 2019 3:44 PM
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Subject: RE: Request for an extension - Ombudsman - 2958 (Ombudsman ref: AFOI-ER/19/10003) [SEC=UNCLASSIFIED]

Dear Emma

Thank you for your email.

I have forwarded this onto the Delegate for their consideration and should have an extension of time decision to you shortly.

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Document 05
Access given under the Freedom of Information Act 2016

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Good afternoon

Document 06
Access given under the Freedom of Information Act 2016

As discussed earlier with an officer from the ACT Ombudsman FOI team, the Justice and Community Safety (JACS) Directorate is seeking an extension of time in relation to the following FOI.

In their request the applicant sought:

“Copy of the tender put out by the ACT government for Tenant Services”

A response is due on **7 January 2020**. I emailed the applicant today seeking an extension of 10 working days to process this FOI request, which would make the response due to them on **17 January 2020**. The applicant has responded saying they do not agree to the extension request.

Our Legislation, Policies and Programs area who has carriage of this work within JACS contacted me earlier to advise that they have a copy of the tender request documents (from Tenders ACT) but are concerned that release of the material could undermine the deliberative process of a particularly sensitive tender that has yet to be evaluated. The request for tender was a select tender that went to three suppliers. There has been considerable media coverage around this tender process and members of the public may have the impression that the tender request documents had been made publicly available on the Tenders ACT site, when they have not been.

There are concerns within JACS about the possible release of material that may undermine this procurement that could result in needing to undertake a new procurement process and a significant waste in government resources should this happen. The JACS Directorate is now in the process of seeking urgent legal advice from the ACT Government Solicitor to provide advice on this issue. However, due to the Christmas shutdown and staff leave the likelihood of receiving this legal advice, processing the request and giving the Information Officer time to deliberate on this request and meet the original deadline of 7 January 2020 is unlikely.

The JACS FOI team (two FOI officers) has some large and complex FOIs that we are trying to finalise before Christmas and have four large requests due either side of the tenant services FOI request. The second JACS FOI officer has accepted an FOI role in another directorate and this role will be vacant in the weeks after Christmas shutdown, leaving one FOI officer in JACS.

It is for the above reasons we are seeking an extension of time and consider 10 extra working days to a reasonable amount of additional time. I look forward to hearing from you.

Please do not hesitate to contact me if you have any follow up questions or would like some more information from me.

Kind regards
Emma

Emma Hotham | Assistant Director – Freedom of Information
Phone: +61 2 6207 0811 | Email: emma.hotham@act.gov.au
Justice and Community Safety Directorate
Governance, Coordination and Reporting
Ground Floor, 12 Moore Street, Canberra City | GPO Box 158 Canberra ACT 2601

 **Happy Holiday Season**  **Please note our offices will be closed from 25 December 2019 to 1 January 2020** 

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Gregory Parkhurst

From: ACTFOI
Sent: Friday, 20 December 2019 2:26 PM
To: 'JACS FOI'
Subject: RE: Request for an extension - Ombudsman - 2958 (Ombudsman reference: AFOI-ER/19/10003) [SEC=UNCLASSIFIED]
Attachments: AFOI ER 19 10003 - s 42 notice.pdf

Dear Emma

Thank you for your reply email.

Please find attached correspondence from the delegate agreeing to extend the processing time to 17 January 2020.

Kind regards

Julie
Senior Merits Review and Case Officer
ACT Strategy and FOI
ACT Ombudsman

Phone: (02) 6276 3773
Email: actfoi@ombudsman.gov.au
Website: ombudsman.act.gov.au

I acknowledge the Traditional Custodians of the ACT. I acknowledge & respect their continuing culture and the contribution they make to the life of this city & region.



#diversitygoeswithme 

From: JACS FOI <JACSFOI@act.gov.au>
Sent: Thursday, 19 December 2019 1:20 PM
To: ACTFOI <ACTFOI@ombudsman.gov.au>
Subject: RE: Request for an extension - Ombudsman - 2958 (Ombudsman reference: AFOI-ER/19/10003) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Julie

Thank you for your email. In response to the questions asked, I can advise that:

- The access application was received by JACS on 3 December 2019. Initially it was unclear as to who should action this FOI, whether it was Tenders ACT (CMTEDD) or JACS. I contacted CMTEDD for advice on 4 December 2019 and received a response on 9 December 2019 from CMTEDD advising that it was a JACS FOI.
- No, JACS has not negotiated any previous extensions of time for this access application with the applicant.

The applicant is [REDACTED] and his email address is [REDACTED]

Please let me know if you need any further information.

Kind regards
Emma

Emma Hotham | Assistant Director – Freedom of Information
Phone: +61 2 6207 0811 | Email: emma.hotham@act.gov.au
Justice and Community Safety Directorate
Governance, Coordination and Reporting
Ground Floor, 12 Moore Street, Canberra City | GPO Box 158 Canberra ACT 2601

🧑🏻‍🤝🧑🏻‍🤝🧑🏻 Happy Holiday Season 🌸 Please note our offices will be closed from 25 December 2019 to 1 January 2020 🎁

From: ACTFOI <ACTFOI@ombudsman.gov.au>
Sent: Thursday, 19 December 2019 12:59 PM
To: JACS FOI <JACSFOI@act.gov.au>
Subject: RE: Request for an extension - Ombudsman - 2958 (Ombudsman reference: AFOI-ER/19/10003)
[SEC=UNCLASSIFIED]
Importance: High

Dear Emma

Thank you for your email.

Before the delegate can make a decision, they would like to clarify:

- When was the access application received by JACS?
- Has JACS negotiated any previous extensions of time with the applicant relating to this access application?

Can you please provide the applicant's name and one form of contact for the applicant as we will also need to notify the applicant if an extension of time is granted.

Please provide the above information as soon as possible. I can be contacted on the below details if you have any questions.

Kind regards

Julie
Senior Merits Review and Case Officer
ACT Strategy and FOI
ACT Ombudsman

Phone: (02) 6276 3773
Email: actfoi@ombudsman.gov.au
Website: ombudsman.act.gov.au

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From: JACS FOI <JACSFOI@act.gov.au>
Sent: Friday, 13 December 2019 3:37 PM
To: ACTFOI <ACTFOI@ombudsman.gov.au>
Subject: FOI: Request for an extension - Ombudsman - 2958

UNCLASSIFIED For-Official-Use-Only

Good afternoon

As discussed earlier with an officer from the ACT Ombudsman FOI team, the Justice and Community Safety (JACS) Directorate is seeking an extension of time in relation to the following FOI.

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Please do not hesitate to contact me if you have any follow up questions or would like some more information from me.

Kind regards
Emma

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GPO Box 442 Canberra ACT
Phone 02 6276 3773 • ombudsman.act.gov.au

Our ref: AFOI-ER/19/10003
Your ref: 2958

20 December 2019

Emma Hotham
Assistant Director
Justice and Community Safety Directorate
GPO Box 158
CANBERRA ACT 2601

By email only: JACSFOI@act.gov.au

Dear Ms Hotham

Freedom of Information – section 42 – extension of time (AFOI-ER/19/10003)

On 13 December 2019, the Justice and Community Safety Directorate (**JACS**) applied, under s 42 of the *Freedom of Information Act 2016 (ACT)* (**FOI Act**), for an extension of time to process an access application made by [REDACTED] (your ref. 2958).

Decision

I am a delegate for the ACT Ombudsman for the purposes of s 42 of the FOI Act.

I have decided to grant JACS an extension of time until **17 January 2020** to process this application.

In coming to this decision, I have considered the following factors, including your advice that:

- there are conflicting public interest factors that apply to the information within the scope of the access application
- JACS is seeking urgent legal advice regarding disclosure of the information.

By granting this extension, it is anticipated that JACS will provide a well-reasoned and better managed decision.

The applicant will be notified of this decision.

Contact

If you have any questions relating to this notice, please contact me at: actfoi@ombudsman.gov.au, or (02) 6276 3773. Please quote AFOI-ER/19/10003.

Yours sincerely

A handwritten signature in grey ink, appearing to read "CM", is positioned above the printed name of the signatory.

Cathy Milfull
Director
ACT Strategy and Freedom of Information



Gregory Parkhurst

From: ACTFOI
Sent: Monday, 23 December 2019 4:44 PM
To: [REDACTED]
Subject: AFOI-ER/19/10003 - Communication - Extension of time [SEC=UNCLASSIFIED]
Attachments: AFOI ER 19 10003 - s 42 notice to FOI applicant.pdf

Dear [REDACTED]

Please find attached correspondence from the ACT Ombudsman's office for your attention.

Kind regards

Julie
Senior Merits Review and Case Officer
ACT Strategy and FOI
ACT Ombudsman

Phone: (02) 6276 3773
Email: actfoi@ombudsman.gov.au
Website: ombudsman.act.gov.au

I acknowledge the Traditional Custodians of the ACT. I acknowledge & respect their continuing culture and the contribution they make to the life of this city & region.



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GPO Box 442 Canberra ACT
Phone 02 6276 3773 • ombudsman.act.gov.au

Our ref: AFOI-ER/19/10003
Your ref: 2958

23 December 2019



By email only



Dear



Freedom of Information – section 42 – extension of time (AFOI-ER/19/10003)

I am writing to advise you that on 13 December 2019, the ACT Ombudsman received a request from the Justice and Community Safety Directorate (**JACS**) for an extension of time to process your access application.

JACS has applied for an extension of time under s 42 of the *Freedom of Information Act 2016* (ACT) (**FOI Act**) because your request is considered to be complex and conflicting public interest factors apply to the information covered by your application.

JACS has requested an extension of time to 17 January 2020.

I have decided to grant JACS an extension of time to process your access application to 17 January 2020. This decision has been made under section 42(3) of the FOI Act.

By granting further time, it is anticipated JACS will provide a well-reasoned and better managed decision.

Contact

If you have any questions relating to this notice, please contact Julie, the case officer for this matter, at: actfoi@ombudsman.gov.au, or (02) 6276 3773. Please quote AFOI-ER/19/10003.

Yours sincerely

A handwritten signature in grey ink, appearing to read "CM", with a checkmark at the end.

Cathy Milfull
Director
ACT Strategy and Freedom of Information

