



Our Ref: LS5101 ~ file 14/662

Mr Josh Deprez
By email to foi+request-714-3243e7aa@righttoknow.org.au

Dear Mr Deprez

Request consultation process (s 24AB) due to existence of a practical refusal reason in relation to your FOI Request No. LS5101

I refer to your request for access to documents relating to testing, installation, and verification procedures and data for EasyCount Senate software (the 'FOI Request') under the *Freedom of Information Act 1982* (the 'FOI Act').

- 2 I, Paul Pirani, Chief Legal Officer of the Australian Electoral Commission ('AEC'), am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.
- 3 I am writing to tell you that I believe that the work involved in processing your request in its current form would substantially and unreasonably divert the resources of this agency from its other operations due to its size and complexity. This is called a 'practical refusal reason': see section 24AA of the FOI Act.
- 4 On this basis, I intend to refuse access to the documents you requested. However, before I make a final decision to do this, you have an opportunity to revise your request. This is called a 'request consultation process' as set out under section 24AB of the FOI Act. You have 14 days to respond to this notice in one of the ways set out below.

WHY I INTEND TO REFUSE YOUR REQUEST

- 5 In your request you sought documents relating to the "EasyCount Senate (ECS)" software ("EasyCount"), namely:
 - Manual and automated software testing procedures for verifying that the software is operating correctly, including manual test procedures, unit tests, integration tests, functional tests, end-to-end tests, table-driven tests, smoke tests, fuzz tests, installation and

compatibility tests, regression tests, acceptance tests, performance tests and benchmarks, security tests, usability tests, network and connectivity tests, and concurrency tests;

- Data sets used in the software testing procedures listed above, including real or simulated sets of votes, and real or simulated preference distributions;
- Installation, maintenance, and troubleshooting instructions, including the specifications of computer hardware, network configuration, operating system and runtime environment configuration required for the testing procedures, and,
- User manuals, guides, usage instructions, and parameter specifications for use of the software.

6 I decided that a practical refusal reason exists because of the resources that would have to be used for:

- (a) collating the documents that fall within the scope of the FOI Request;
- (b) deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document (including resources that would have to be used for examining the document or consulting with any person or body in relation to the request);
- (c) making an edited copy, of each document that contains exempt material;
- (d) notifying any interim or final decision on the request,

would substantially and unreasonably divert the resources of the AEC from its other operations: see subparagraph 24AA(1)(a)(i) of the FOI Act.

7 I halted the collation of the documents because over 50 hours' work had been undertaken and less than one third of the files relevant to the FOI Request had been collated.

8 The files that had been collated were identified as containing a mix of exempt material and conditionally exempt material that would require extensive decision making time, namely:

- (a) information that would contribute to uncovering the trade secret in EasyCount or other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed: see section 47 of the FOI Act;
- (b) information that may have a substantial adverse effect on the proper and efficient conduct of the operations of the AEC: see paragraph 47(d) of the FOI Act; and
- (c) personal information of persons named in the documents: see section 47F of the FOI Act.

9 In making my decision I did not have regard to any reasons that you gave for requesting access to the documents nor any reason that may have been imputed as your reasons for seeking that access.

REQUEST CONSULTATION PROCESS

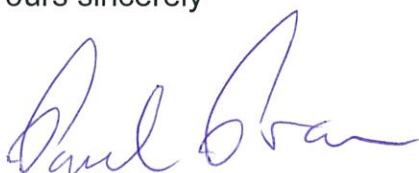
- 10 You now have an opportunity to revise your request to enable it to proceed.
- 11 Revising your request can mean narrowing the scope of the request to make it more manageable or explaining in more detail the documents you wish to access. For example, by providing more specific information about exactly what documents you are interested in, our agency will be able to pinpoint the documents more quickly and avoid using excessive resources to process documents you are not interested in.
- 12 Before the end of the consultation period, you must do one of the following, in writing:
- (a) withdraw your request
 - (b) make a revised request
 - (c) tell us that you do not wish to revise your request.
- 13 The consultation period runs for 14 days and starts on the day after you receive this notice.
- 14 During this period, you are welcome to seek assistance from the contact person I have listed below to revise your request. If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommence processing it. (Please note that the time taken to consult you regarding the scope of your request is not taken into account for the purposes of the 30 day time limit for processing your request.)
- 15 If you do not do one of the three things listed above during the consultation period or you do not consult the contact person during this period, your request will be taken to have been withdrawn.

CONTACT OFFICER

- 16 If you would like to revise your request or have any questions, the contact officer for your request is Owen Jones, Senior Lawyer who may be contacted as follows:

Telephone: 02 6271 4528
Fax: 02 6293 7657
Email: owen.jones@aec.gov.au

Yours sincerely



Paul Pirani
Chief Legal Officer

21 October 2014

