

Court of Appeal File No. S1-CA-1433
Supreme Court File No. S1-GS-27636

PRINCE EDWARD ISLAND COURT OF APPEAL

B E T W E E N:

CAPITAL MARKETS TECHNOLOGIES, INC. and 7645686 CANADA INC.

Appellants/Plaintiffs

and

GOVERNMENT OF PRINCE EDWARD ISLAND, WES SHERIDAN, STEVEN MACLEAN,
ALLAN CAMPBELL, CHRIS LECLAIR, BRAD MIX, CHERYL PAYNTER,
STEVEN DOWLING, WILLIAM DOW, MELISSA MACEACHERN,
ROBERT GHIZ, GARY SCALES, TRACEY CUTCLIFFE, NEIL STEWART,
PAUL JENKINS and 7628382 CANADA CORPORATION

Respondents/Defendants

MOTION RECORD

(Volume 2 - tabs 26 through 68)

(Motion to be scheduled to be heard with appeal)

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- A. Notice of Motion
- B. Affidavit of Paul Maines sworn November 18, 2019

Documents attached as tabs 01 through 67

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NOTICE OF MOTION OF MOVING PARTY

(Motion to be schedule to be heard with appeal)

THE MOVING PARTIES, CAPITAL MARKETS TECHNOLOGIES, INC. and 7645686 CANADA INC. will make a Motion to the Prince Edward Island Court of Appeal on a date to be set by the Prince Edward Island Court of Appeal at Charlottetown, Prince Edward Island.

PROPOSED METHOD OF HEARING:

1. The motion is to be heard orally by the Prince Edward Island Court of Appeal designated Appeal Panel pursuant to Rule 61.13 (2) of the Rules of Civil Procedure which states that

“A motion to have the Court of Appeal receive further evidence shall be made to the panel hearing the appeal.”

THE MOTION IS FOR:

2. An Order that the following evidence be admitted at the hearing of the said appeal since the new evidence was obtained after the hearing of the Summary Judgment Motions argued April 23, through April 26, 2019, with the exception of the ITSS Incident Report dated March 17, 2015 admitted to the court record on or about September 06, 2019.

Documents attached at tabs 01 through 67

3. Such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

1. Rules of Civil Procedure Rules 37 and 61.
2. In *R. v. Palmer* (1980), the Supreme Court of Canada per Justice McIntyre set out the following criteria for admission of fresh evidence:
 - a. “The evidence should generally not be admitted if, by due diligence, it could have been adduced at trial provided that this general principle will not be applied as strictly in a criminal case as in civil cases ... “;
 - b. “The evidence must be relevant in the sense that it bears upon a decisive or potentially decisive issue in the trial.”;
 - c. “The evidence must be credible in the sense that it is reasonably capable of belief.” and
 - d. “It must be such that if believed it could reasonably, when taken with the other evidence adduced at trial, be expected to have affected the result.
3. Kerans & Willey (Second Edition - 2006) in Standards of Review Employed by

Appellate Courts summarized the test for fresh evidence on appeal as follows:

- a. "It could not ... have been produced at trial.";
- b. "It must be relevant.";
- c. "It must be reasonably capable of belief."; and
- d. "If believed, it must be said of it that it could reasonably have affected the result of the first hearing if it had then been heard, an assessment that takes into consideration the other evidence at that hearing.

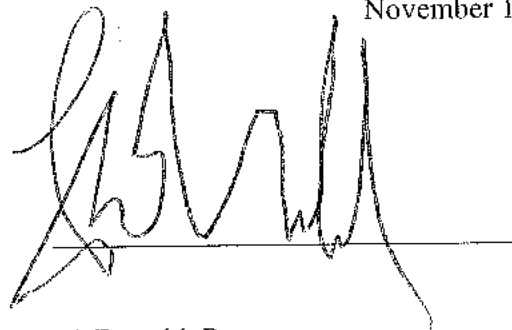
THE DOCUMENTARY EVIDENCE FOR THE MOTION ARE:

1. The affidavit of Paul Maines sworn November 18, 2018.
2. Such further and other materials as this Honourable Court may permit.

TIME ESTIMATE:

1. Estimate of time required by appellant counsel for oral argument 1.0 hour.
3. All of which is respectfully submitted.

November 18, 2019



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AFFIDAVIT OF PAUL MAINES

(Motion to be scheduled)

I, Paul Maines, of the Town of Malpeque, Prince County, Prince Edward Island, a director and the President of the plaintiffs, Capital Market Technologies, Inc. and 7645686 Canada Inc. having knowledge of the matters hereinafter:

MAKE OATH AND SAY AS FOLLOWS:

I have personal knowledge of the matters deposed to in this affidavit, except where I state below that the information contained in the affidavit was obtained from a third party, in which case I believe it to be true.

I make this affidavit as an officer of the appellants requesting an order that the following evidence be admitted at the hearing of the said appeal since the new evidence was obtained after the hearing of the four Summary Judgment Motions argued April 23, 2019 through April 26, 2019.

EXHIBITS IDENTIFIED BY NUMBER, DATE AND DESCRIPTION:

PART ONE (tabs 01 through 40) of this affidavit deals with material and relevant documents obtained through *Freedom of Information and Privacy Act* (“FOIP Act” / “FOIP Requests”).

PART TWO (tabs 41 through 62) of this affidavit deals with delay tactics utilized by the PEI Government to avoid document disclosure related to the FOIP Requests.

PART THREE (tabs 63 through 67) summarizes the Consent Orders obtained to assure the appellants that the PEI Government would comply with certain FOIP Requests and to set a precedent for disclosure.

PART ONE

FOIP Request 2019-011 EDT requested all records of Brad Mix with Basalt Company from February 01, 2011 to May 01, 2011. The following documents were delivered on May 14, 2019:

1. May 07, 2019 Keedwell letter to Rose re explanation for Basalt disclosure; pg 01
2. Mar 23, 2011 Mix note re Basalt conference call; pg 01

FOIP Request 2019-032 EDT requested all records of Brad Mix with Neil Stewart from May 01, 2011 to June 15, 2011. The following documents were delivered on May 22, 2019:

3. May 21, 2019 Deputy Minister letter re FOIP document disclosure; pgs 08
4. May 27, 2011 Stewart email to Maync/Mix re senior investment officer; pg 05 of 08

Jun 03, 2011 Stewart email to Mayne/Mix re financial services meetings; pg 06 of 08
 Jun 02, 2011 Mix email to Stewart financial presentations; pg 07 of 08

FOIP Request 2019-014 EDT requested all records of Brad Mix with Rob Segal from February 01, 2011 to June 01, 2011. The following documents were delivered on May 22, 2019:

5. May 21, 2019 Deputy Minister letter re FOIP document disclosure; pgs 25
 6. Feb 16, 2011 Virgin Gaming Operational Value Chain; pg 01/21
 May 31, 2011 PEI Non-Disclosure Agreement; pg 22/23
 Jun 03, 2011 IPEI Contribution document re \$492,188; pg 24/25

FOIP Request 2019-031 EDT (Arsenault) requested records related to the \$100,000 grant from September 01, 2012 to February 28, 2013. The following documents were delivered on July 11, 2019:

7. Jul 11, 2019 Deputy Minister letter re FOIP document disclosure; pgs 18
 8. Assorted 18 pages of material and relevant documents; pgs 18

FOIP Request 2019-035 EDT (Arsenault) requested records related to the \$100,000 grant from September 01, 2010 to January 31, 2011. The following documents were delivered on July 11, 2019:

9. Jul 11, 2019 Deputy Minister letter re FOIP document disclosure; pgs 70
 10. Assorted 70 pages of material and relevant documents;
 withheld pursuant to section 25 (2), 38 docs similar pgs 04 of 38
 various material and relevant emails; pgs 39 to 51
 withheld pursuant to section 25(2); pgs 52 of 63
 various material and relevant emails; pgs 63 to 70

FOIP Request 2019-032 EDT requested records related to the reconsideration of page 6 of 8 pages. The following documents were delivered on July 15, 2019:

- 11. Jul 15, 2019 Deputy Minister letter re reconsideration disclosure; pg 01
- 12. Jun 03, 2011 Stewart email to Mayne/Mix, page 06 clarification; pg 06 of 08

Counsel McDonald letter to Counsel Coady dated July 23, 2019 delivered to Counsel Coady a copy of the letter from Ms McGrath-Gaudet, Deputy Minister of Economic Growth, Tourism and Culture to Ms Karen Rose, the Information and Privacy Commissioner.;

- 13. Jul 23, 2019 McDonald letter to Coady; pgs 03
- 14. Jul 10, 2019 McGrath-Gaudet letter to Ms Karen Rose; pgs 05

FOIP Request 2019-087 EDT requested all records of Brad Mix with RBC Investor Services from May 01, 2012 to October 01, 2012. The following documents were delivered on July 26, 2019;

- 15. Jul 23, 2019 Deputy Minister letter re FOIP document disclosure; pgs 24
- 16. May 08, 2012 Barrow/Mix email string re RBC Dexia; pg 01 to 07
- Jun 07, 2012 Sheridan emails to MacEachern, Roach, Mix re RBC Dexia status; pg 08
- Jul 12, 2012 Mix email to Sheridan re MOU breach and RBC Dexia promotion; pg 09
- Jul 19, 2012 Mix email to Roach and Paynter re MOU breach and RBC Dexia; pg 10
- Jul 27, 2012 Sheridan email to Mix re RBC Investor Services, pg 11 to 14
- Sep 21, 2012 Gorveatt email to Mix re RBC Investor Services, pg 15 to 24

FOIP Request 2019-089 EDT requested all records of Brad Mix with Cato/Claimatrix from February 01, 2011 to July 01, 2011. The following documents were delivered on July 26, 2019:

- 17. Jul 23, 2019 Deputy Minister letter re FOIP document disclosure; pgs 08
- 18. Assorted 08 pages of material and relevant documents (Exhibit AA); pg 01 to 08

FOIP Request 2019-090 EDT requested all records of Brad Mix with Andre Edelbrock / Ethoca from February 01, 2011 to July 01, 2011. The following documents were delivered on July 26, 2019:

- 19. Jul 23, 2019 Deputy Minister letter re FOIP document disclosure; pgs 07
- 20. Assorted 07 pages of material and relevant documents (Exhibit AA); pg 01 to 07

FOIP Request 2019-092 EDT requested all records of Allan Roach with Brad Mix re Virgin Gaming from February 01, 2011 to December 01, 2011. The following documents were delivered on August 05, 2019:

- 21. Aug 05, 2019 Deputy Minister letter re FOIP document disclosure; pgs 29
- 22. Nov 15, 2011 Saini email to Mix re Allen Roach signed Agreements; pg 01
- Sep 23, 2011 Innovation PEI letter to Virgin Gaming re Agreement; pg 02 to 13
- Nov 15, 2011 MacEachern to Roach Mix et al re announcement; pg 13 to 29

FOIP Request 2019-196 EDT requested all records pertaining to Brad Mix's incident report to Information Technology Shared Services (ITSS) on March 17, 2015. Time period: March 1, 2015 to September 1, 2015." The following documents were delivered on August 27, 2019:

- 23. Aug 27, 2019 Deputy Minister letter re ITSS Incident Report; pgs 05
- 24. Mar 17, 2015 ITSS Incident Report; pg 01 to 02
- Apr 13, 2015 Mayne email to Mix re missing emails; pg 03
- Apr 16, 2015 Mix email to Malone re missing emails; pg 04
- Apr 20, 2015 Mix email to Malone re Sheridan emails; pg 05

FOIP Request 2019-204 EGTC requested all records, in any format, electronic or otherwise of Brad Mix which were either sent to - or received from - Edmund Malone or make mention Norman MacDonald from April 15, 2015, 2001 to June 15, 2015:

- | | | | |
|-----|--------------|---|--------|
| 25. | Sep 25, 2019 | Deputy Minister McGrath-Guadet letter re FOIP disclosure; | pgs 05 |
| 26. | Apr 16, 2015 | Mix email to Malone re gap in emails; | pg 01 |
| | Apr 13, 2015 | Mayne email to Mix re gap in emails; | pg 02 |
| | Apr 16, 2015 | Malone email to Mix re gap in emails; | pg 03 |
| | Apr 20, 2015 | Mix email to Malone re gap in emails; | pg 04 |
| | undated | Solicitor-Client Privilege; | pg 05 |

FOIP Request 2019-105 FIN requested all records, in any format, electronic or otherwise of Wes Sheridan which were either sent to - or received from - Chris LeClair, or make mention of Paul Jenkins from May 01, 2011 to November 01, 2011:

- | | | | |
|-----|--------------|---|-------------|
| 27. | Sep 27, 2019 | Deputy Minister letter re FOIP document disclosure; | pgs 42 |
| 28. | Assorted | Mix email to Jenkins re Virgin Gaming; | pg 11 of 42 |

FOIP Request 2019-096 EGTC requested all records, in any format, electronic or otherwise of Neil Stewart which were either sent to - or received from - Brad Mix, or make mention of Patrick Mason from January 01, 2011 to June 01, 2011:

- | | | | |
|-----|--------------|---|--------------|
| 29. | Oct 15, 2019 | Deputy Minister letter re FOIP document disclosure; | pgs 106 |
| 30. | Assorted | 106 pages of material and relevant documents; | |
| | | May 27, 2011 Sheridan is coming this way ... ; | pg 01 |
| | | May 16, 2011 Part of secret e-gaming file; | pg 08 |
| | | Mar 07, 2011 Island investment program emails; | pgs 61 to 63 |

FOIP Request 2019-103 EGTC requested all records, in any format, electronic or otherwise of Neil Stewart which were either sent to - or received from - Chris LeClair or make mention of Paul Jenkins from January 01, 2011 to June 01, 2011:

- | | | | |
|-----|--------------|---|---------|
| 31. | Oct 22, 2019 | Deputy Minister letter re FOIP document disclosure; | pgs 111 |
| 32. | Assorted | 111 of material and relevant documents; | |

withheld under rule 22(1)(g); pgs 13-15
 redacted under rule 22(1)a; pg 20
 36 pages withheld for section 25(1) Client Solicitor privilege;

FOIP Request 2019-106 FIN requested all records, in any format, electronic or otherwise of Wes Sheridan which were either sent to - or received from - Neil Stewart or make mention of Brad Mix from June 01, 2011 to December 01, 2011:

33. Oct 22, 2019 Deputy Minister letter re FOIP document disclosure; pgs 43
 34. Assorted 43 pages of material and relevant documents;
 Jun 08, 2011 Virgin Gaming email chain; pgs 02 to 04
 Jul 07, 2011 RBC emails; pg 12 of 43
 Assorted Virgin Gaming emails; pgs 13 to 23
 Brad Mix Calendar entries for special e-gaming meetings; pgs 29 to 43

FOIP Request 2019-107 FIN requested all records, in any format, electronic or otherwise of Wes Sheridan which were either sent to - or received from - Chris LeClair or make mention of Keith Laslop from June 01, 2012 to October 01, 2012:

35. Oct 24, 2019 Deputy Minister letter re FOIP document disclosure; pgs 24
 36. Assorted 24 pages of material and relevant documents;
 Sep 05, 2012 Sheridan email to LeClair; pg 11 of 24
 Oct 01, 2012 Laslop email to Sheridan; pg 23 of 24
 These were two emails provided in PEI Government Second SAOD;

FOIP Request 2019-106 FIN requested all records, in any format, electronic or otherwise of Wes Sheridan which were either sent to - or received from - Neil Stewart or make mention of Brad Mix from June 01, 2011 to December 01, 2011:

37. Oct 30, 2019 Deputy Minister letter re FOIP document disclosure; pg 01

38. Assorted page 44 is added and is a material and relevant documents; pg 44

FOIP Request 2019-088 EGTC requested all records, in any format, electronic or otherwise of Mix which were either sent to - or received from – Laura Burns of HMC Global, or make mention of SIBOS from May 01, 2012 to December 01, 2012:

39. Nov 07, 2019 Deputy Minister letter re FOIP document disclosure;

40. No documents Consent Order/Court Order: 187 pages blocked as they contain information that affect the interest of third parties.

PART TWO

Introduction

The delays by the PEI Government to release documents have been unprecedented. The Information and Privacy Commissioner, Karen Rose (“Rose”), stated that in Prince Edward Island no applicant has ever had to file a deemed refusal under section 9. (2) where the Public Body has refused access to records;

Section 9. (2) of the FOIP Act read as follows: “The failure of the head to respond to a request within the 30 day period or any extended period is to be treated as a decision to refuse access to the record.”;

Unfortunately, I have had to file under section 9. (2) of the FOIP Act, where the public body is deemed to have refused access to responsive records, on five different occasions.

Time Line

Through this FOIP Request process, we realized that Mix emails were not there, as anticipated. We then decided to go back to reverse engineer the FOIP Requests. We were able to find Mix’s

emails in the in boxes of Sheridan and Stewart. These FOIP requests led not only to delays, but four failure to produce consent orders that are filed in the PEI Supreme Court for enforcement;

The timeline following shows the continual interference and refusal to release documents in compliance with the FOIP Act up to the time of this filing;

Our private investigator, Bruce MacDonald, filed a series of FOIP Requests in 2014. In particular, he filed for the following key FOIP Requests since Mix was at all material times a key player in the e-gaming initiative: “Copies of all emails and correspondence including phone records, PINS, documentation between Brad Mix and Paul Jenkins from January 1, 2011 - September 30, 2012.”;

Stewart, as Deputy Minister, signed the FOIP Response letter for MacDonald’s FOIP Request stating: “We have completed our search at the Department of Innovation and Advanced Learning and no records have been retrieved in relation to your request.”;

The PEI Government filed their affidavit of documents on or about November 05, 2018. I had hoped that the PEI Government affidavit of documents sworn by Maria Kemp, and certified by counsel Coady, would provide me with different results. They didn’t. In fact, not one email was produced for Mix before November 2011 in the affidavit of documents. In my January 02, 2018 summary judgment motion affidavit exhibit 112, emails with Mix in 2011 were produced in Appendix D, H, I;

During cross-examination, counsel Coady confirmed he produced all relevant emails from Mix. After the cross-examination, counsel McDonald determined the only way we would have any chance of getting any documents, including Mix emails, Mix would be through a series of FOIP Requests and most likely an equal number of FOIP Reviews.

CMT Initiates FOIP Request Strategy

FOIP Request set forth below was for: "All records, in any formats, electronic or otherwise, of Brad Mix [Senior Director Innovation PEI] which were either sent to-or received from- Patrick Mason, or make mention of Patrick Mason. January 1, 2011 to May 1, 2011." For simplicity, this FOIP Request will be followed to demonstrate how it was discovered that Mix's emails for all material times during the E-Gaming Initiative were missing;

41. Feb 04, 2019 Smith email to Maines pg 01

Smith responded as follows: "I have notified the public body of each of the seven requests and have asked that a search for responsible records be initiated. Due to the number of concurrent requests, the public body may require additional time to complete the searches."

42. Apr 10, 2019 Smith letter to Maines pgs 02

Smith letter to Maines states: "Dear Mr. Maines ... The search for responsive records included an electronic search, as well as a search of the physical cabinets in the offices of Brad Mix and his assistant. ... a copy of the nine pages of responsive records is attached.";

43. Apr 15, 2019 Maines letter to Rose re request for review pgs 02

Maines letter to Rose re request for review states: "Dear Ms Rose ... In addition, I have attached an email and a calendar entry from Brad Mix to Paul Jenkins and Patrick Mason that should have been included at a minimum. Its hard to imagine that Mr. Mix scheduled meetings with Patrick Mason and signed a contract to pay Mr. Mason \$10,000 for a feasibility study yet there are no responsive records other than a contract.";

44. Apr 26, 2019 Rose letter to Keedwell pgs 03

Commissioner Rose letter to Deputy Keedwell states: "Dear Deputy Keedwell ... Ordinarily we request evidence about the following points: 1. Who conducted the search; 2. Steps taken by the

Public Body to identify and locate records responsive to the Applicants access request; 3. Scope of the search (areas searched); 4. Steps takes to indemnify and locate all possible locations of records responsive to the access request; and 5. Reasons the Public Body **believes that no more responsive records exist** than the ones that have been identified. . . . We ask for further information on the fifth point. **Please advise if there are reasons the Public Body believes that no more responsive records exist than the ones that have been identified.**”;

45. May 29, 2019 McGrath-Gaudet letter to Rose pg 03

McGrath-Gaudet letter to Rose states: “Dear Commissioner Rose ... Part of the information provided to you included a copy of the Record Search Form dated February 15, 2019. The Public Body has reviewed this form with Brad Mix who advises that he was involved in the search process and that his assistant, Pam Groveatt, was the person who primarily conducted the initial search.” “In addition to the three questions addressed above, you have generally asked the Public Body to comment on why it believes no more responsive records exist than what has been identified. As discussed earlier in this response, the Public Body has not been able to identify a particular reason for the results of the initial search.”;

46. Jun 04, 2019 Rose letter to McGrath-Gaudet pgs 02

Rose letter to McGrath-Gaudet states: “Dear Deputy McGrath-Gaudet ... In follow up to my phone conference with Bobbi-Jo Dow Baker [PEI Government lawyer] last week, I am providing further clarification about the information I require relating to your Public Body’s reasons for believing that no more responsive records exist than the ones that have been identified.”;

It is my expectation to be provided with responses to the following questions:

1. How were the archives created? By Whom? When?
2. At the time the archives were created, what policies/procedures were in place relating to retention of email records?

3. If the missing emails were deleted, would this have occurred before or after the creation of the archive?

4. Why are there two archives?

5. **In the first archive, please provide possible reasons for finding no emails in the inbox for the time periods June 13, 2010 to March 19, 2012, and in the sent box for the time periods June 12, 2010 to April 20, 2012.**

6. Did you interview Brad Mix relating to these missing records? If so, did he provide an explanation for the missing emails? Eg. Did these time periods correspond with a change of position for Mr. Mix, or a period of absence from work?;

I trust that the above questions will guide you in deciding the most appropriate person(s) with whom I will meet, and who may provide a demonstration of the search for records, and the outcome of the search.

Please respond by June 14, 2019”;

The confirmation that Brad Mix has no records from June 2012 to March 2012 coincides with the E-Gaming Initiative that ended in February 2012. Mix was a key player for the Government at all material times;

Schedule C of the PEI Government affidavit of documents states: “Documents that were formerly in the possession, control or power of the Government and the Defendants but are no longer in the possession, control or power of the Government and the Defendants.” Mix is NOT mentioned in Schedule C. This confirmation by Commissioner Rose, that the PEI Government has no records for Mix from June 2012 to after March 2012 confirms PEI Government affidavit of documents is an intentional falsehood and misleading;

It is important to note that this was Public Body did not respond to these questions on time and was delayed until July 10, 2019;

47. Jun 13, 2019 Rose letter to Maines pgs 05??

Rose letter to Maines states: "Dear Paul Maines ... Further to my letter to Public Body dated April 26, 2019, and copied to you, please find enclosed the submissions of the Public Body, dated May 29, 2019 ... We ask that you review the representations of the Public Body and provide submissions, if any, by July 5, 2019.";

48. Jun 17, 2019 Maines letter to Rose pgs 08

Maines letter to Rose states: "Dear Ms. Rose ... This is not a simple case of a few missing emails but rather part of an elaborate cover-up to erase key documents around e-gaming and all documents that relate to work with Capital Markets Technologies and mc. Mason was hired to do a feasibility study and part of the study was to be able to produce the recruiting packages for the three (3) companies. As mentioned, Claimatrix is the software for Capital Markets Technologies.";

49. Jun 20, 2019 Rose letter to McGrath-Gaudet pgs 02

Rose letter to McGrath-Gaudet states: "The submissions of the Applicant indicate his belief that there has been an intentional effort by government to delete records relating to e-gaming, and that your Public Body's response to this access request is evidence of such an effort. In replying to this allegation, I ask that you provide reasonable explanation(s) for the missing records over a specific time period";

McGrath-Gaudet letter to Rose states: "Dear Commissioner Rose ... The following is the Public Body's response to the questions posed in your letter dated June 4, 2019";

Did you interview Brad Mix relating to these missing records if so, did he provide an explanation for the missing emails? E.g. Did these time periods correspond with a change of position for Mr. Mix, or period of absence from work?;

“This matter was with [sic] discussed with Mr. Mix at length. He is not able to nor is he technically qualified to provide a technical explanation for the apparent loss of emails. The time periods in question do not correspond with change of position, or period of absence from work. Mr. Mix reports that in 2015 he was looking through his archive for emails. It was at this time that he discovered that emails in his archive for periods of time appeared to be missing. Mr. Mix states that he did not understand what had happened as he could not locate emails from many files and contact throughout 2011 and 2012. Although Mr. Mix advises that he does delete some transitory emails that he won't use again (as is permitted), he unequivocally states that he has not and does not intentionally delete other emails. He states that he was distressed by the discovery of missing emails.”;

In addition, the Public Body also admitted the following:

“ The Acting Director, Business Infrastructure Services also advised the Public Body that :

- **On March 17, 2015, Brad Mix reported a problem by way of incident report to ITSS because he discovered time periods of missing emails from his archive.**
- ITSS's electronic incident report confirms the above occurrence.
- On the same day, ITSS sent help to Mr. Mix in order to determine if there might be a technical issue with Mr. Mix's archive, a copy of the archive was made with the assistance of an end user support technician resulting in there being two archives for Mr. Mix.
- All of Mr. Mix's archived GroupWise records from that point forward were directed to the copy the original archive or the other archive.”;

This was the first time that Public Body admitted emails were in fact missing and reported as missing to ITSS in 2015 on or about the same time CMT lawsuit was filed;

50. Jul 15, 2019 McGrath-Gaudet letter to Rose pgs 02??

McGrath-Gaudet letter to Rose states: “Dear Commissioner Rose ... the following is the Public Body’s response to the second question contained in your letter dated June 4, 2019. The second question was:

“At the time the archives were created, what policies/procedures were in place relating to retention of email record?”;

Section 5 (Recorded Information Management) of Treasury Board’s Policy and Procedure Manual is the applicable records information management policy that has been in place since 1998. As you may be aware, this policy applies to public records (including emails) created by employees for Government departments and crown corporations”;

After reviewing the Brad Mix incident report, I filed the following FOIP Request: “All Records pertaining to Brad Mix’s Incident Report to Information Technology Shared Services (ITSS) on March 17, 2015.” This became FOIP Request 2019-169;

51. Jul 25, 2019 McGrath-Gaudet letter to Rose pgs 03

McGrath-Gaudet letter to Rose states: “Dear Commissioner Rose ... The following is the Public Body’s reply to your letter dated July 20, 2019 ... While the Applicant appears to be frustrated by the fact that the Public Body has faced records management challenges, the Applicants unwillingness to accept this explanation does not justify the serious claims the Applicant has made that relate to an alleged ‘cover-up’. To be clear, the Public Body takes exception to these unsubstantiated claims being made by the Applicant in the context of this access request and other access requests under review.”;

52. Jul 26, 2019

Rose letter to Maines

pgs 09

Rose letter to Maines states: Re: Request for Review under the FOIP Act Public Body Files: 2019-011, 2019-009, 2019-014, 2019-032 “Dear Paul Maines ... As all of the above-referenced reviews deal with the issue of adequate search, and missing records relating to one staff person, we have decided to issue one Order relating to all four reviews. Please note that the issue of delay in File FI-19-288 will also be addressed” “I appreciated the Public Body’s recent response to question raised about the missing records. However, I require more information to fully understand some of the response. I wish to interview someone at IT services who has the expertise and experience to provide more detail. With reference to ‘experience’, I wish to gather information from someone who was present at IT services during the dates covered by the access requests, who would therefore be familiar with the experience relating to records management practice relating to records management practices relating to emails and email archives during that time period. As a result, the interview may require more than one staff person from IT Services”;

53. Aug 01, 2019

FOIP Request confirmation date from Smith

pg 01

Information Technology Shared Services (ITSS) on March 17, 2015 stated: “We will provide the information available to you under the Act as quickly as possible. Although the Act allows a maximum of 30 days to respond, we will reply sooner than August 18, 2019, if possible.”;

On August 01, 2019, after the Mix ITSS Incident Report where Mix was searching for emails he sent to Sheridan we filed another FOIP Request. We realized that the emails Mix was searching for were NOT filed in the PEI Government affidavit of documents and we then requested all records, in any format, electronic or otherwise of Sheridan which were either sent to - or received from - Neil Stewart or make mention of Brad Mix from June 01, 2011 to December 01, 2011. This FOIP became 2019-106 FIN;

54. Aug 05, 2019

Maines letter to Rose

pgs 04

Maines letter to Rose states: "Dear Ms. Rose ... What makes this admission/defence/excuse so difficult to take seriously is this excerpt from the Public Body letter to you dated May 29, 2019. In this letter, Ms McGrath-Gaudet wrote: Part of the information provided to you included a copy of the Record Search Form dated February 15, 2019. **The Public Body has reviewed this form with Brad Mix who advises that he was involved in the search process** and that his assistant, Pam Gorvcatt, was the person who primarily conducted the initial search." In the same May 29, 2019 letter, Ms McGrath-Gaudet addresses the review of archives and says the following: "In addition to the three questions addressed above, you have generally asked the Public Body to comment on why it believes no more responsive records exist than what has been identified . As discussed earlier in this response, the Public Body has not been able to identify a particular reason for the results of the initial search. At all material times, Mr. Mix and presumably the Public Body were, or ought to have been, aware that the FOIP requests fell within the timeframe of the emails that were already deleted. Although Mr. Mix stated these deleted emails caused him distress, Mr. Mix and the Public Body have been dishonest throughout the FOIP process since January.";

55. Aug 19, 2019

Maines letter to Rose

pg 01

The August 19, 2019 Deadline for Records for Mix Incident Report came and went without any records being produced. I filed my first deemed refusal to Commissioner Rose. Maines letter to Rose states: "Dear Ms Rose ... Subsection 8(1) of the FOIP Act states: "The head of a public body shall make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.";

In addition, subsection 8(2) also states: "The head of a public body shall create a record for an applicant if: (a) the record can be created from a record that is in electronic form and in the custody or under the control of the public body, using its normal computer hardware and

software and technical expertise; and (b) creating the record would not unreasonably interfere with the operations of the public body. 2001,c.37,s.8.”;

I believe that the Public Body has failed to comply with all of the above. Please accept this letter as my request to seek a review of file FIN 2019-169 under subsection 9(2) of the FOIP Act, where the public body is deemed to have refused access to responsive records.”;

56. Aug 27, 2019 Responsive Records Re Incident Report pg 07

To get in accordance with the Act, the Public Body produced the documents required by law. The FOIP Response contained emails with Mix and Edmund Malone, Director Business Infrastructure Services. The email conversations seemed incomplete, so I then filed a new FOIP for: “All records, in any format, electronic or otherwise, of Brad Mix which were either sent to- or received from-Edmond Malone or make mention of Norman MacDonald from April 15, 2015 to June 2015.” This became FOIP 2019-204 EGTC;

57. Sep 03, 2019 Maines letter to Rose pgs 03

Maines letter to Rose states: “Dear Ms Rose ... ITSS also notes that it was unable to remotely access PEI-10640, and according to the Public Body, ‘Brad Mix states that ITSS is unable to confirm who created the archive or when exactly it was created. The Public Body also states it doesn’t know who or when it was created. How is it that both Brad Mix and the Public Body are so sure that these records were not deleted illegally when neither knows anything about the creation or deletion of the Archive? The bottom line is that the records for Brad Mix in archive PEI-10640 were deleted without being stored as required by Provincial law and policy.”;

58. Sep 25, 2019 Responsive Records for the Mix / Malone FOIP Request pg 05

The same records were produced as the records produced for records around Mix Incident Report with the exception of the empty page for Solicitor-Client Privilege. Neither Mix, Edmund Malone nor Norman MacDonald are lawyers. I filed a review immediately;

59. Oct 04, 2019 Request for Review for the Mix / Malone FOIP pg 01

Request for Review for the Mix / Malone FOIP states: "Good morning Ms Rose ... Please accept this email as my request to review FOIP 2019-204 EGTC. Public Body has left a page blank for solicitor client privilege and using 25. (1) of the FOIP act. Given that none of the parties are lawyers, I am challenging this provision.";

60. Oct 07, 2019 Rose letter to McGrath-Gaudet pg 01

Rose letter to McGrath-Gaudet states: "Dear Deputy McGrath-Gaudet ... This office has received a request for review from an applicant dated October 4, 2019 ... The issue raised by the Applicant relates to your public body's decision to withhold page 5, pursuant to clause 25. (1) of the FOIP Act.";

61. Oct 15, 2019 Rose letter to McGrath-Gaudet pgs 08

Rose letter to McGrath-Gaudet states: "Dear Deputy McGrath-Gaudet ... Further to my letter of October 7, 2019, please provide evidence regarding the solicitor-client privilege you claim under subsection 25(1) of the FOIP Act. As we are not reviewing the actual record, we require you to provide as much detail as possible, so that I may properly assess your claim.";

"Please provide your submissions by November 15, 2019. Upon receipt of your submissions, we will be providing a copy to the Applicant. Please draft your submissions with this in mind.";

After two months of attempting to have a meeting with ITSS, Commissioner Rose finally met with them on September 19, 2019. The Commissioner met with John Brennan, Acting Director, Business Infrastructure Services. This exhibit contains the Summary of the meeting with Commissioner Rose;

62. Oct 29, 2019 Rose ITSS Meeting Overview pgs 03

Since trying to have a meeting since July 26, Commissioner Rose was finally able to meet with the ITSS, on September 19, 2019, the Commissioner met with John Brennan, Acting Director, Business Infrastructure Services. This exhibit contains the overview of the questions Commissioner Rose wanted answered.

PART THREE

Privacy Commissioner Consent Order and PEI Supreme Court Orders

Through this FOIP Request process as the appellants we realized that Mix emails were missing. A different document strategy was required. The history of the Consent Orders follows:

63. PEI Supreme Court File # S1-GS-28822, 2019-096 EGTC: "All records, in any formats, electronic or otherwise, of Neil Stewart-then CEO of Innovation - which were either sent to - or received from - Brad Mix, or make mention of Patrick Mason or a company called "Tech Markets" from January 1, 2011 to June 1, 2011"

- Received **111 pages** of records and duplicates on July 25, 2019 and September 13, 2019, respectively.
- We are requesting a 30-day extension and agree to provide the applicant with any records not requiring third party consultation as soon as applicable protections are applied.

Timeline from Mary Lynne Smith, FOIP Coordinator:

- May 16, 2019: Both of these requests were received. We received 11 requests in all from the applicant at that time;
- May 23, 2019: I negotiated a processing time line with the applicant and issued acknowledgment letters, advising a response would be issued no later than June 22, 2019;
- Jun 19, 2019: 30-day extension letters issued under s. 12(1)(c), more time is need to consult with other parties, advising a response would be issued no later than July 22, 2019;
- Jul 12, 2019: Advised applicant more time will be required to process the requests;
- Jul 19, 2019: Advised applicant I will be approaching Commissioner for extension;
- Jul 22, 2019: Advised applicant I did not yet contact Commissioner, but will be contacting Commissioner on July 23, 2019;
- Jul 23, 2019: The Commissioner granted request for 30-day extension, with the understanding that we may also require a further extension due to third party consultation under section 28 of the FOIP Act;
- Jul 25, 2019: Issued notice of extension to applicant;
- Jul 29, 2019: Confirmed with applicant that there will be third party consultations;
- Aug 12, 2019: Advised applicant that I require additional time for third party consultations;
- Sep 17, 2019: Advised applicant of meeting with public body on September 18, 2019, to discuss deemed refusal files and apologized for delay;
- Sep 19, 2019: Updated applicant. October 9, 2019 – Pursuant to Consent order signed by the Information and Privacy Commissioner on October 9, 2019, Department of Economic and Growth, Tourism and

Culture is to provide you with a response on or before November 8, 2019;

Oct 09, 2019: Pursuant to Consent Order signed by the Information and Privacy Commissioner on October 9, 2019, Department of Economic and Growth, Tourism and Culture is to provide you with a response on or before November 8, 2019;

Oct 15, 2019: FOIP Records released with information protected from disclosure under the following sections: Subsection 15(1) disclosure harmful to personal privacy and Subsection 22(1), advice from officials. In addition, 19 pages contain information that, if disclosed, affect the interests of third parties.

64. PEI Supreme Court File # S1-GS-28823, 2019-088 EGTC: - "All records, in any formats, electronic or otherwise, of Brad Mix which were either sent to - or received from – Laura Burns of HMC Global, or make mention of a conference called “SIBOS” from May 1, 2012 to December 1, 2012."

- Received 354 pages of records and duplicates on July 9, 2019.
- We are requesting a six-week extension and agree to provide the applicant with any records not requiring third party consultation as soon as applicable protections are applied.

Timeline from Mary Lynne Smith, FOIP Coordinator:

May 16, 2019: The Public Body received an access request from the Applicant for information pursuant to the FOIP Act;

May 23, 2019: The Applicant and the Public Body agreed on a plan to respond to 11 concurrent requests. The Applicant and the Public Body agreed that the Public Body would commence processing this request;

- Jul 23, 2019: The Information and Privacy Commissioner granted the Public Body a time extension of 30 days, to August 22, 2019;
- Aug 12, 2019: The Public Body advised the Applicant that the responsive records contained information relating to third parties;
- Sep 20, 2019: The Public Body advised the Applicant that they were proposing a further extension of time to process four requests, including the requests including the request identified as EGTC 2019-088;
- Oct 09, 2019: Pursuant to Consent order signed by the Information and Privacy Commissioner on October 9, 2019, Department of Economic and Growth, Tourism and Culture is to provide you with a response on or before November 8, 2019;
- Oct 09, 2019: Consent order filed in PEI Supreme court for enforcement;
- Nov 07, 2019: The records responsive to your request, approximately 187 pages in total, contain information that affect the interests of third parties.

No Records were provided.

65. PEI Supreme Court File # S1-GS-28824, Review FI-19-302 (2019-091 EGTC): - "All records, in any formats, electronic or otherwise, of Brad Mix [Senior Director Innovation PEI] which were either sent to - or received from - Cheryl Paynter from February 1, 2012 to July 1, 2012."

- We are seeking a consent order.
- The head of the public body will direct that the estimated 959 e-mails and attachments be produced immediately for processing.
- We are requesting permission to process the responsive records upon the completion of requests 2019-088 EGTC; 2019-096 EGTC and 2019-103-EGTC.
- Due to expected large number of pages of records, and possible third party consultations, we are requesting a 60-day extension and agree to provide the applicant with any records not requiring third party consultation as soon as applicable protections are applied.

Timeline from Mary Lynne Smith, FOIP Coordinator:

May 14, 2019: The Public Body received an access request from the Applicant for information pursuant to the FOIP Act;

May 23, 2019: The Applicant and the Public Body agreed on a plan to respond to 11 concurrent requests. The Applicant and the Public Body agreed that the Public Body would commence processing this request;

Jul 30, 2019: The Public Body extended its time to respond pursuant to section 12 of the Act to August 21, 2019;

Sep 20, 2019: The Public Body advised the Applicant that they were proposing a further extension of time to process four requests, including the requests including the request identified as EGTC 2019-091;

Pursuant to subsection 61(3) of the FOIP Act, where a Public Body does not respond in time to a request for access to a record, it is to be treated as a decision to refuse access. Notwithstanding the foregoing, the Public Body desires to enter into a consent order to Confirm its intention to provide responsive records in accordance with the Act to the Applicant pursuant to the time lines set out below;

Accordingly, the Public Body now proposes to respond to the Applicant in accordance with the Act on or before January 7, 2020.

66. PEI Supreme Court File # S1-GS-28825, Review FI-19-304 (2019-103 EGTC): - "All records, in any formats, electronic or otherwise, of Neil Stewart-then CEO of Innovation - which were either sent to - or received from - Chris LeClair, or make mention of Paul Jenkins from January 1, 2011 to June 1, 2011."

• We are seeking a consent order. Received **147 pages** of records and duplicates on July 25, 2019 and September 13, 2019, respectively.

- We are requesting a 30-day extension and agree to provide the applicant with any records not requiring third party consultation as soon as applicable protections are applied.

Timeline from Mary Lynne Smith, FOIP Coordinator:

May 16, 2019: The Public Body received an access request from the Applicant;

May 23, 2019: The Applicant and the Public Body agreed on a plan to respond to 11 concurrent requests. They agreed that the Public Body would commence processing this request on or before Saturday July 8, 2019, with a projected response date of August 7, 2019;

Aug 06, 2019: The Public Body advised the Applicant that they were proposing a further extension of time to process four requests, including the request identified as EGTC 2019-103;

Sep 20, 2019: The Public Body advised the Applicant that they were proposing a further extension of time to process four requests, including the requests including the request identified as EGTC 2019-103;

Pursuant to subsection 61(3) of the Act, where a Public Body does not respond in time to a request for access to a record, it is to be **treated as a decision to refuse access**. Notwithstanding the foregoing, the Public Body desires to enter into a consent order to Confirm its intention to provide responsive records in accordance with the Act to the Applicant pursuant to the time lines set out below.

Accordingly, the Public Body now proposes to respond to the Applicant in accordance with the Act on or before October 24, 2019;

Oct 15, 2019: FOIP Records released with information protected from disclosure under the following sections: Subsection 15(1) disclosure harmful to personal privacy and Subsection 22(1), advice from officials;

Thirty-six pages of records have been protected from disclosure in their entirety under subsection 25(1) of the Act as they contain solicitor-client privilege. In addition, 14 pages contain information that, if disclosed, affect the interests of third parties.

67. PEI Government Second Supplementary Affidavit of Documents.

Sworn before me at the City of Charlottetown
in the Province of Prince Edward Island
on November 18, 2019.



Paul Maines



A Commissioner, etc.

1



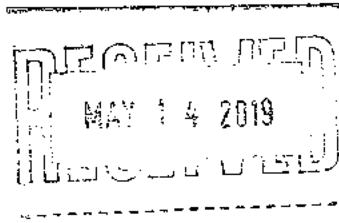
Economic
Development
and Tourism

Développement
économique
et Tourisme



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Ile-du-Prince-Édouard
Canada C1A 7N8



May 7, 2019

Karen A. Rose,
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
P. O. Box 2000
Charlottetown, PE C1A 7N8

Dear Commissioner Rose:

Re: Review under the Freedom of Information and Protection of Privacy Act (the "Act")
Public Body: Economic Development and Tourism
Ref. No.: 2019-11 EDT
Your File No.: FI-19-284

The following is the Public Body's response to your letter dated April 11, 2019.

Additional Search

The Public Body decided to review Brad Mix's e-mails/appointments over a time period that includes the time period subject of the Applicant's access request. Concurrently, the Public Body conducted an additional search using the keyword "Basalt". The review and additional search was conducted by my assistant and two employees of IT Shared Services.

As a result of the review of Mr. Mix's archives, it was discovered that there were 791 records in total archived between January 1, 2011 and December 31, 2011. The Public Body has not been able to identify any particular reason for this result; however, the Public Body notes that one of the records located in this additional search was determined to be responsive to the Applicant's access request, a copy of which hereto attached.

Search for Records

The completed search form provided to you contains background information on the search that was conducted by the Public Body.

The access request is for ***"All records, in any formats, electronic or otherwise, of Brad Mix [Senior Director Innovation PEI] which were either sent to – or received from – or make mention of the company known as Basalt Canada. February 1, 2011 to May 1, 2011."***

The request specifies that the Applicant seeks copies of all records of Brad Mix for a specified time frame. The search did not reveal any responsive records. The additional search has resulted in the location of one record – an appointment confirmation. The Public Body acknowledges that the search

failed to retrieve one responsive record; however, the Public Body does not believe this makes its search unreasonable.

In response to the five questions you posed in your letter, the Public Body submits the following:

1. *Who conducted the search:* Brad Mix, Senior Director of Innovation PEI, Business Attraction and Emerging Sectors, participated in carrying out the search of responsive records; however, we are advised that the search was primarily conducted by Pam Gorveatt. Ms. Gorveatt is the Administrative Assistant for Mr. Mix.

2. *Steps taken by the Public Body to identify and locate records responsive to the Applicant's access request:* The Applicant's access request was limited to records of one individual (Mr. Mix). As such, Mr. Mix met with his Administrative Assistant to identify and locate all possible places where the responsive records would be found.

With reference to the search form provided to you with the processing documents, the Public Body identified the following as being locations where responsive records would be found, namely:

- Mr. Mix's GroupWise account, including calendar, e-mail inbox, e-mail sent box and archives;
- Mr. Mix's administrative assistant's e-mail inbox, e-mail sent box and archived e-mails;
- A commerce database;
- The shared directory used by Mr. Mix and his administrative assistant;
- Mr. Mix's directory for his office computer;
- File cabinets in the offices of Brad Mix and Ms. Gorveatt;
- Central Records with the Records Officer.

The first five of the above locations were electronically searched using key word searches, as outlined in the search form. The Public Body acknowledges that Mr. Mix's directory for his office computer was not noted in the search form. This oversight was unintentional. Mr. Mix's assistant has confirmed that Mr. Mix's directory for his office computer was searched when the shared directory was searched. Files in the file cabinets and central records were also searched.

No records were located.

As noted above, an additional search resulted in the location of one responsive record, namely: an appointment confirmation, a copy of which is attached to this letter.

3. *Scope of the Search (areas searched):* Please see the Public Body's response to question 2 which also responds to question three.

4. *Steps taken to identify and locate all possible locations of records responsive to the access request:* Please see the Public Body's response to question 2 which also responds to question four.

5. *Reasons the Public Body believes that no more responsive records exist:* The Applicant submitted a letter to you on April 3, 2019, indicating that the answer to the Applicant's request that no records were found was insufficient. The Applicant refers to meetings the Applicant states the Applicant attended with Brad Mix that involved a discussion about "Basalt". The Applicant also provided one e-mail from a third party to Brad Mix dated April 20, 2011, that refers to "Basalt".

With respect, an oral discussion at a meeting does not necessarily require the creation of records. The Public Body does not see this as support that the Public Body has not conducted a reasonable search.

The Public Body acknowledges that if the above e-mail provided by the Applicant had been found, it would have been a responsive record. However, this e-mail provided by the Applicant was not found as a result of the search or the additional search voluntarily undertaken by the Public Body in light of this request for review.

In addition to the five questions addressed above, you have asked the Public Body to address why the e-mail provided by the Applicant was not produced by the Public Body's search.

As previously noted in this letter, the Public Body undertook a review of Mr. Mix's archived calendar and e-mails, resulting in 791 records being found in Mr. Mix's archives for the year 2011. The e-mail provided by the Applicant was not one of those 791 records. The Public Body is not able to identify a particular reason for this result. However, the Public Body notes that it has been highlighted by the Auditor General that records management was an issue for the Public Body during the time period in question ((see page 39 as well as Appendix A of the Auditor General's 2016 Report entitled "*Special Assignment: Government Involvement with the E-gaming Initiative and Financial Services Platform*"). In that report, difficulty with management and safeguarding of records was noted, including difficulty with archived records and apparent loss of some electronic data.

Consequently, while the Public Body can confirm that two searches of Mr. Mix's records did not produce the e-mail provided by the Applicant, the Public Body is unable to confirm why it was not located during the searches for records.

The Public Body Conducted a Reasonable Search

Conducting a reasonable search is a component of a public body's duty to assist an applicant pursuant to section 8 of the Act.

*"Under section 8 of FOIPP Act, the Public Body is not held to a standard of perfection. I note that all public bodies are held to the same standard, that being one of reasonableness."*¹

Subsection 8(1) of the Act states that the *"head of a public body must take every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely."*²

Notwithstanding the fact that the e-mail provided by the Applicant was not produced, the Public Body states that its search was a reasonable search. To support this position, the Public Body refers you to your reasons for decision in *Order No. F1-15-013*. In that decision, you described how:

- the public body in that case identified the appropriate individuals to be involved in the search,
- the administrative staff conducted the search of electronic and physical locations; and,
- the staff documented the electronic search.

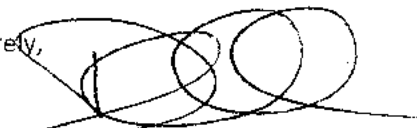
¹ *Re. Office of the Premier (Order No. F1-15-013)*, 2015 CanLII 98414 at p. 18 (PE IPC). Also see *Re. Health PEI (Order No. F1-16-005)*, 2016 CanLII 48837 at para. 38 (PE IPC)

² Also see *Order No. F1-16-005, supra.* at para. 36.

In *Order No. F1-15-013*, you concluded that although the public body in that case did not record the physical locations where responsive records may be found, the Public Body provided sufficient evidence to prove the adequacy of its search. The process undertaken by the public body in *Order No. F1-15-013* is not unlike the search undertaken by the Public Body in the instant case that was summarized by the Public Body to the Applicant in the Public Body's letter to the Applicant dated March 29, 2019.

In closing, the Public Body acknowledges that one responsive record was missed when the search was conducted. That record has since been located and the Public Body asks that it be disclosed to the Applicant as part of this review process. However, the Public Body did take reasonable measures to search the records at issue and meet its duty to assist the Applicant. Respectfully, the Public Body submits that a reasonable search was conducted.

Sincerely,



David Keedwell
Deputy Minister

Attachment

c: APSO

2

From: Brad Mix
Date: 3/23/2011
Time: 10:00 AM - 11:00 AM
Subject: Basalt conference call

31

3



Economic
Development
and Tourism

Développement
économique
et Tourisme



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

May 21, 2019

2019-032 EDT

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Development and Tourism, as follows:

"All records, in any formats, electronic or otherwise, of Brad Mix [Senior Director Innovation PEI] which were either sent to - or received from - Neil Stewart, May 1, 2011-June 15, 2011."

Some of the records you requested contain information that is protected from disclosure under the Act. We have protected the information so that we may disclose to you the remaining information in the records. The information is protected from disclosure under the following section(s) of the Act:

- **Subsection 15(1)** of the Act, as personal information the disclosure of which would be an unreasonable invasion of a third party's personal privacy, including an individual's name; and
- **Subsection 22(1)** of the Act, as information the disclosure of which could reasonably be expected to reveal consultations or deliberations involving officers or employees of a public body.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

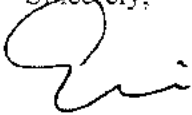
B

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.


If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

Attachment

c: APSO 

Subject: Fwd: Access Request 2019-032 EDT
From: paul maines <paulmaines@icloud.com>
Date: 5/22/2019, 3:56 PM
To: John McDonald <jwm@mcdonaldross.com>

Brad Mix And Neil Stewart FOIPP

Begin forwarded message:

From: Mary-Lynn Smith <marylynsmith@gov.pe.ca>
Date: May 22, 2019 at 3:51:31 PM EDT
To: paulmaines@icloud.com
Subject: Access Request 2019-032 EDT

Good afternoon Mr. Maines,

Attached please find a scanned copy of the signed decision letter from the Department of Economic Development and Tourism in response to your request for access to **""All records, in any formats, electronic or otherwise, of Brad Mix [Senior Director Innovation PEI] which were either sent to - or received from - Neil Stewart, May 1, 2011-June 15, 2011.""**, together with responsive records.

Regards,

Mary-Lynn Smith
FOIPP Coordinator
Access and Privacy Services
Justice and Public Safety
Sullivan Building

Telephone: (902) 569-7591

Statement of Confidentiality

This message (including attachments) may contain confidential or privileged information intended for a specific individual or organization. If you have received this communication in error, please notify the sender immediately. If you are not the intended recipient, you are not authorized to use, disclose, distribute, copy, print or rely on this email, and should promptly

delete this email from your entire computer system.

35

Déclaration de confidentialité

Le présent message (y compris les annexes) peut contenir des renseignements confidentiels à l'intention d'une personne ou d'un organisme en particulier. Si vous avez reçu la présente communication par erreur, veuillez en informer l'expéditeur immédiatement. Si vous n'êtes pas le destinataire prévu, vous n'avez pas le droit d'utiliser, de divulguer, de distribuer, de copier ou d'imprimer ce courriel ou encore de vous en servir, et vous devriez le supprimer complètement de votre système informatique.

Attachments:

| | |
|--|--------|
| Signed Decision Letter.pdf | 344 KB |
| 2019-032 EDT - Responsive Records to Applicant.pdf | 1.0 MB |

4

Handwritten mark

Neil Stewart - Re: Senior Investment Officer - IT

From: Neil Stewart
To: Mayne, Michael; Mix, Brad
Date: 5/27/2011 4:01 PM
Subject: Re: Senior Investment Officer - IT

I am in favour of this approach but would like someone who could also handle gaming and financial services

Neil Stewart CA
Chief Executive Officer
Innovation PEI
P.O. Box 910
Charlottetown, PEI C1A 7L9
Phone (902) 368-5004 Fax (902) 368-6660

>>> Brad Mix 5/27/2011 3:48 PM >>>

Met with [15.] a few times since his resignation and it is clear we do need to fill his position sooner than later. Ideally we need someone with 10 plus years experience in a business development role in IT, has a considerable rolodex of out of province contacts, and will instantly gain the respect of our existing clients and staff. Again, I would like to have a competition for this role but use Island Recruiting to go after a handful of candidates.

Let me know your thoughts.

Brad

>>> Michael Mayne 5/13/2011 5:33 PM >>>
Did not know - big loss for us

Did he say why? Will he reconsider?

Let's think carefully about how he can be replaced.

-----Original Message-----

From: Brad Mix
To: Michael Mayne <MBMAYNE@gov.pe.ca >
Neil Stewart <NMSTEWART@gov.pe.ca >
Creation Date: 5/13 5:22 pm
Subject: [15.(1)]

Neil I think you know this. [15.(1)] handed me his resignation today and his last last day will be June 17.

[15.(1)]

[15.(1)] has done a great job and will be tough to replace. I already spoke to Leah and since the position is technically Scot MacDonald's, she is going to go back to Birt. If I had my choice, I would go to Island Recruiting (Blake Doyle's company) to get us a hired gun.

Brad

Neil Stewart - Re: Financial Services Meetings - Toronto

From: Neil Stewart
To: Mayne, Michael; Mix, Brad
Date: 6/3/2011 8:57 AM
Subject: Re: Financial Services Meetings - Toronto

was there a memo on the tax holiday at some point? I don't believe so.

Wes Sheridan is heading this way with the gaming. The way I was understanding where Wes's head was at, and I may be wrong but based on my last discussion with him...they are viewing gaming and financial services as one thing. Minister Sheridan had checked with me when he heard we were in discussion with Virgin Gaming. Basically the conversation I had with him was that [REDACTED] 22.(1)(a) [REDACTED] 22.(1)(a) he wanted ipel to be consistent with our offerings. the thought was if we prospected a company that was small and needed grants more than tax holidays, we would go the grant route. If it was a large co we would go the tax route.

I suggest, rather than speak to Rory, cause I'm pretty sure he will defer to policy board, we meet with Sheridan and Campbell, and lay out that we would like to do on the tax holiday for financial services [REDACTED] 22.(1)(a) [REDACTED] 22.(1)(a). We have aerospace, bio, and the eastern and western industrial park tax holidays already. I think we will have no problem getting this through TB and cabinet.

All this to say, in order to make Mix's meetings most effective, I suggest we get some indication from the ministers if this is a sellable proposal. then mix can advise in his meetings on the direction we are going and follow up with these clients once we have the holiday in place.

there really is no cost to gov't as we are introducing a new industry and bringing in corporate tax we would not otherwise have. most of the gain ipel gets from new business is from payroll tax. corporate tax is only \$16 to \$30M annually in pei

Neil Stewart CA
 Chief Executive Officer
 Innovation PEI
 P.O. Box 910
 Charlottetown, PEI C1A 7L9
 Phone (902) 368-5004 Fax (902) 368-6660

>>> Brad Mix 6/3/2011 8:30 AM >>>

Ok, the next policy board meeting is on June 23, 2 days after I meet with TD, State Street, and CIBC Mellon. Can I discuss this with Rory before going to Toronto, present a 10 year tax rebate for the provincial portion of corporate income tax to the companys, and this program is put on the agenda for policy board for the June 23 meeting ?

Let me know if this is ok

Brad

>>> Michael Mayne 6/2/2011 5:08 PM >>>
 Guys

Let's discuss a more comprehensive tax holiday for financial services to take to PB - it is a good idea to also include captives .. And warm up PB to the idea

MM

-----Original Message-----

From: Brad Mix
To: Neil Stewart <NMSTEWART@gov.pe.ca >
CC: Michael Mayne <MBMAYNE@gov.pe.ca >
Creation Date: 6/2 3:44 pm
Subject: Financial Services Meetings - Toronto

Neil,

I am going to be in Toronto from June 20 to 23 to meet with financial services companys. To date, we have scheduled 10 meetings with companys such as CIBC Mellon, TD, State Street, RBC Dexia, and Manulife of which some are renewing existing conversations but most are completely new presentations. Along with our standard labour rebate for financial services companys (7.5% for 10 years), are you comfortable to offer a 22.(1)(a)

22.(1)(a)

I do think this type of program is needed to attract a financial services opportunity to PEI.

Let me know.

Brad

5



Economic
Development
and Tourism

Développement
économique
et Tourisme



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

May 21, 2019

2019-014 EDT

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Development and Tourism, as follows:

"All records, in any formats, electronic or otherwise, of Brad Mix which were either sent to - or received from - Rob Segal, or make mention of 'Virgin Gaming'. February 1, 2011 to June 1, 2011."

Some of the records you requested contain information that is protected from disclosure under the Act. We have protected the information so that we may disclose to you the remaining information in the records. The information is protected from disclosure under **subsection 14(1)** of the Act, as information that would reveal financial information of a third party that is supplied explicitly or implicitly in confidence and could reasonably be expected to harm the competitive position or interfere significantly with the negotiating position of a third party.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,

Erin McGrath-Gaudet
Deputy Minister

Attachment

c: APSO

Subject: Fwd: Access Request 2019-014 EDT
From: paul maines <paulmaines@icloud.com>
Date: 5/22/2019, 3:49 PM
To: John McDonald <jwm@mcdonaldross.com>

All the virgin gaming documents for your records

Let's chat when you are able

Sent from my iPhone

Begin forwarded message:

From: Mary-Lynn Smith <marylynnsmith@gov.pe.ca>
Date: May 22, 2019 at 3:45:41 PM EDT
To: paulmaines@icloud.com
Subject: Access Request 2019-014 EDT

Good afternoon, Mr. Maines.

Attached please find a scanned copy of the signed decision letter from the Department of Economic Development and Tourism in response to your request for access to "All records, in any formats, electronic or otherwise, of Brad Mix which were either sent to - or received from - Rob Segal, or make mention of 'Virgin Gaming'. February 1, 2011 to June 1, 2011", together with responsive records.

Regards,

Mary-Lynn Smith
FOIPP Coordinator
Access and Privacy Services
Justice and Public Safety
Sullivan Building

Telephone: (902) 569-7591

Statement of Confidentiality

This message (including attachments) may contain confidential or privileged information intended for a specific individual or organization. If you have received this communication in error, please notify the sender immediately. If you are not the intended recipient, you are not authorized to use, disclose, distribute, copy, print or rely on this email, and should promptly delete this email from your entire computer system.

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Attachments:

Signed Decision Letter.pdf

334 KB

2019-014 EDT - Responsive Records to Applicant.pdf

4.1 MB

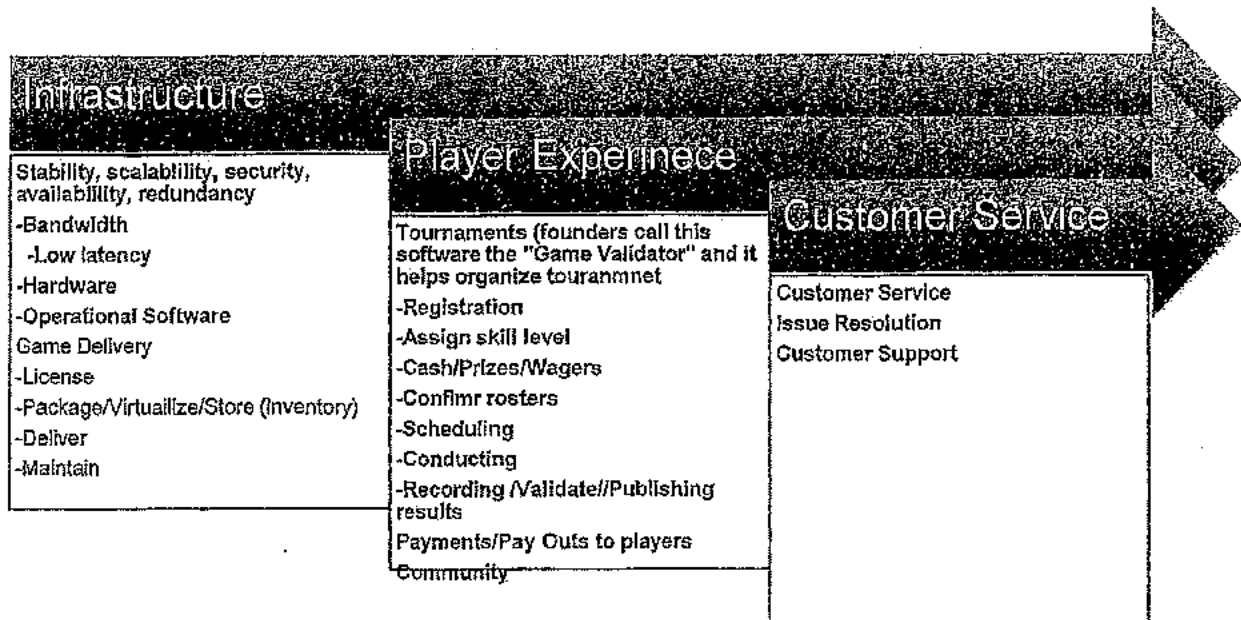
6

FEB 16, 2011 43

(2)

6

Virgin Gaming Operational Value Chain (deduced)



References:

- Video of founders discussing site at press launch: <http://www.craveonline.com/gaming/article/exclusive-sir-richard-branson-talks-virgin-gaming-104681>
- Virgin Gaming's game-changing mix of video games, social media and betting, Steven Stradbroke, January 24, 2011 2 Comments and 14 Reactions
- Virgin Gaming picks Peer 1 to reach one million users, By: Kathleen Lau On: 24 Nov 2010 For: ComputerWorld Canada
- Peer1 press release, Introducing Virgin Gaming

PEI Offer, Key Messages

- We can successfully address virtually all aspects of Virgin Gaming's customer care operations cost effectively today. [Marked in bold above]
 - We have the infrastructure
 - We have the labour pool
 - We have the experience
 - We have a very competitive cost structure

PEI Offer, Proof Points

- The Province is a committed partner (not fine tuned yet)
 - Taxation/Rebates:
 - 37.5% labour rebates for 12-month period for each new hire in year 1, paid quarterly.
 - In yrs. 2 through 11, refund of the Provincial Income Tax and the PEI portion of the property tax. Federal and Municipal obligations remain.

- PEI is a cost effective place to do business
 - Relocation/cost of living is low (2000 sq. ft. home, less than \$200k)
 - Labour is inexpensive, junior coders \$40/k, senior \$75k
 - Real estate is reasonable, commercial Lease rates (\$14-20/sq. ft./year)

- There are local sources of high quality, motivated employees who want to stay "home" in PEI
 - And local schools have a focus on IT and gaming...
 - Local universities (UPEI) and colleges (Holland) have CS degree/diplomas specializing in video game deployment, customer care, computer science
 - Video game hub in Charlottetown

- PEI has high quality infrastructure in place today to support call centers
 - Redundant
 - Multiple high quality carriers (Eastlink, Bell)
 - Fast
 - Full fiber network (Bell) recently installed
 - Hugely scalable in 1Mbps increments
 - Redundant (Bell has two links on/off the Island)
 - Low latency (both Bell and Eastlink networks are highly responsive, able to deliver an excellent user experience)
 - Experienced
 - 15 contact centers operating in PEI now
 - In and outbound
 - Multichannel (email, chat, phone, fax, web)
 - Many industries including HR/Customer Support, Customer Care, Financial Services, Technical Support (Tier 2 and 3)
 - Available
 - Hosting
 - Several options
 - ATC data center has immediate availability 15 racks available now
 - Fitzroy data center – robust space (ex Bell data center) is a blank slate, customizable to specific needs

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Proposal

For

Infrastructure Provisioning and Hosting

To

Virgin Gaming

By

VisionQuest

Primary Contact:

Desmond J. (Des) Lecky
Managing Partner
VisionQuest Inc.
(902) 367-7124

19 April 2011

Material in this proposal is confidential and proprietary to VisionQuest Inc. It is provided to the client for the sole purpose of establishing a business relationship between VisionQuest Inc. and the client. No part of this document may be used for other purposes or reproduced or used by a third party without the expressed written permission of VisionQuest Inc.

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Virgin Gaming

Proposal

1.0 EXECUTIVE SUMMARY

Virgin Gaming is positioning for significant growth and has engaged VisionQuest Inc. to develop a proposal for a hosting solution for their interactive gaming platform.

VisionQuest Inc. is an Atlantic Canada based professional services company that is recognized for the delivery of quality managed technology services to clients. VisionQuest Inc. was formed in May 2000, and operates from offices located in the Atlantic Technology Centre, Charlottetown, Prince Edward Island, Canada.

VisionQuest server infrastructure is located in the data centre at the Atlantic Technology Centre, Charlottetown, Prince Edward Island. On a daily basis over 2,000 users are accessing VisionQuest provided infrastructure at the Atlantic Technology Centre from over 50 locations across Canada and many international locations, including: United States, Mexico, Dominican, Venezuela, Argentina, Chile, Australia, Indonesia, Mongolia, Tanzania, Turkey, Greenland, and China.

VisionQuest offers clients a full suite of support services through the VisionQuest Service Desk. The Service Desk is located at the Atlantic Technology Centre and is staffed with bilingual service technicians, supported by the latest technology for remote access and troubleshooting.

This proposal outlines the business and technical requirements of Virgin Gaming as relayed through a series of conference calls and email exchanges and defines our proposed solution to meeting these requirements. We are confident that Virgin Gaming will be pleased with the measures that we have taken to ensure the reliability and high availability of the computing platform.

VisionQuest is pleased to offer this solution to Virgin Gaming at a preferred client rate of \$16,990 per month over a four-year contract term. This service fee includes all defined hardware, software and support for the infrastructure, data center cabinets, power and environment considerations, dedicated bandwidth and service desk services. There are no additional setup fees.

VisionQuest is prepared to work with Virgin Gaming to develop a technical and financial model that best aligns with the strategy of the company.

2.0 INTRODUCTION

VisionQuest Inc. is an Atlantic Canada based professional services company that specializes in management and information technology consulting and the delivery of managed technology services to clients.

VisionQuest Inc. was formed in May 2000, and operates from offices located in the Atlantic Technology Centre, Charlottetown, Prince Edward Island, Canada. This 130,000 square foot state-of-the-art facility opened in 2002 as a cornerstone to building the information technology sector on Prince Edward Island.



VisionQuest offers a full suite of information technology services that allow clients to realize the benefits of information technology solutions without having to own, manage or house traditional IT assets. Services include data centre co-location, provision of physical or virtual servers, and full support for network, server and desktop technology environments through the VisionQuest Service Desk.

The VisionQuest Service Desk is located at the Atlantic Technology Centre and is staffed 24 hours a day, 7 days a week with bilingual service technicians, supported by the latest technology for remote access and troubleshooting.



VisionQuest hosting server platforms are located in the data centre at the Atlantic Technology Centre. The 2,200 square foot co-location data centre, situated on the lower level of the ATC, meets all the high-tech requirements of a modern data center. The data centre is also utilized by both the federal and provincial governments, thus meeting or exceeded their rigorous standards. VisionQuest is the largest private sector tenant in the data centre.

VisionQuest Inc. is pleased to partner with Bulletproof Solutions Inc. to offer a full range of specialized security, network design, and consulting services through a highly qualified team focused on providing leading edge security and integration solutions. We have worked closely with Bulletproof Solutions on many client solutions over the past six years. Our references, reputation for quality, timely and cost effective solutions speak for themselves.

3.0 STATEMENT OF WORK

Virgin Gaming has engaged VisionQuest Inc. to develop a proposed hosting solution for their interactive gaming platform. Through a series of conference calls and email exchanges the requirements were defined.

The following business requirements were established as key to a successful proposal:

- Resilient and fault-tolerant environment at the computing, network, and physical facility levels
- Clear growth strategy, with planned growth of 100% over a 12 month period.
- The environment must provide redundant Internet connections
- All hardware, including racks, networking, SAN and computing will be provided. Only the web load-balancers will be provided by Virgin Gaming.
- All hardware will be base-config only, with Virgin Gaming providing configuration services.
- A fully redundant SAN, preferably spread across 2 physical platforms, that scales quickly and easily while providing maximum fault-tolerance.
- Access to 24x7 on-site technical support for the data center.

The following technical requirements were specifically mandated as part of the environment:

- The environment will comprised of 20 servers running Citrix Xen in the following allocation:
 - Four (4) web servers
 - Two (2) mail servers
 - Four (4) app. servers
 - Two (2) GV servers
 - Two (2) CSR servers
 - Two (2) DB servers
 - Two (2) Terracotta servers
 - One (1) Log management server
 - One (1) NMS server

Virgin Gaming

Proposal

- A 10Gbps iSCSI SAN with at least 7 TB of 15K SAS disk
- NFS is required, but does not need to operate at 10Gbps.
- All production connections must operate at 1Gbps and be redundant
- All switches, including the SAN switches, must be accessible via console over serial as an out-of-band connection
- The SAN must support both replication and snapshots for DR and backup
- The management network requires two connections, one (1) iLo and one (1) Dom0. Both connections can operate at 100Mb.
- All servers should have at least 32GB RAM
- Servers should have dual CPUs with at least 8 cores each
- Redundant firewalls should have specifications similar to a Cisco ASA5550

We made the assumption that all hardware will have 24x7x4 hour vendor support (where available).

With the preceding requirements defined, we propose the following environment for hosting the Virgin Gaming platform at the Atlantic Technology Centre. In this proposal we will outline the environment, focusing on the various sections of the environment individually, examining the justification for our hardware decisions and detailing how each platform meets both the business and technology needs of Virgin Gaming.

4.0 PROPOSED SOLUTION

4.1 SECURE DATA CENTER

4.1.1 OVERVIEW

VisionQuest hosting server platforms are located in the data centre at the Atlantic Technology Centre. The 2,200 square foot co-location data centre, situated on the lower level of the ATC, meets all the high-tech requirements of a modern data center. Features of the data centre include:

- Proximity card access system
- Digital video surveillance
- On-site security

- Dual air conditioning units
- Dry pipe fire suppression system
- Dual uninterruptible power supplies with backup diesel generators
- Secured cabinets
- Dual fibre Internet connections

4.1.2 PHYSICAL SECURITY

The Atlantic Technology Centre is accessible during normal business hours with a commissionaire on duty to control access. The centre is accessible after hours to authorized persons with access gained via a Proximity card access system. All individuals accessing the data centre have been security cleared to the Enhanced Reliability level. The data centre is equipped with video cameras that record all activities of persons in the data centre and tapes are viewed daily by security personnel.

4.1.3 SERVICE AVAILABILITY MEASURES



To meet the ATC target of 99.8% network and power availability, the data centre is equipped with an 80KVA uninterruptible power supply (UPS) that will maintain power



to data centre operations until the 749HP, 558KW generator automatically engages. Generator and UPS testing occurs bi-weekly with no service interruptions to the servers or networks. Tenants are notified in advance of any planned outages that would have an impact on systems or networks.

4.1.4 DISASTER RECOVERY

VisionQuest has prepared and maintains a disaster recovery plan to recover servers, applications and network connections in the case of a disaster. The Disaster Recovery Plan is updated regularly to reflect new client requirements and technology advancements.

VisionQuest will work with management and staff of Virgin Gaming to develop a disaster recovery strategy to address the unique requirements of Virgin Gaming. The cost of implementation of the strategy is outside the scope of this project and proposal.

SE

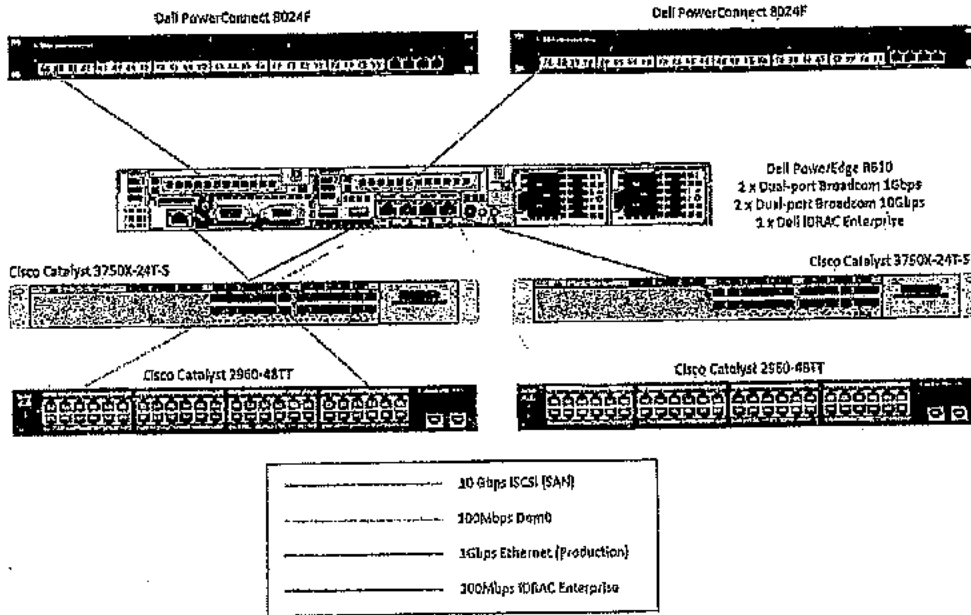
4.2 SOLUTIONS ARCHITECTURE

4.2.1 SERVERS

The computing environment was specified at 20 servers, with the ability to rapidly scale up the environment as business requirements demanded. In light of those requirements, we propose the following server configuration.

| Server Specs | Qty |
|--|-----|
| Dell PowerEdge R610 (1U) with two (2) 6-core Xeon E5675 CPU's @ 3.06 GHz, 32 GB memory (4GB x 8), no drives, iDRAC6 Enterprise, 2 dual-port on-board Broadcom 1G, 2 dual-port Broadcom 10G NICs, DVD-ROM, SD card for XenServer embedded, slide rails cable mgmt, redundant PDU, 4 Year mission critical tech support and 4-hours on-site for P1 issues | 18 |
| Dell PowerEdge R510 (2U) with two (2) 6-core Xeon E5675 CPU's @ 3.06 GHz, 32 GB memory (4GB x 8), 8 x 2 TB SATA drives, RAID 5 with battery-backed cache, iDRAC6 Enterprise, 1 x dual-port on-board Broadcom 1G, 1 x Intel Gigabit ET dual-port NIC, DVD-ROM, slide rails cable mgmt, redundant PDU, no Operating System, 4 Year mission critical tech support and 4-hours on-site for P1 issues | 2 |

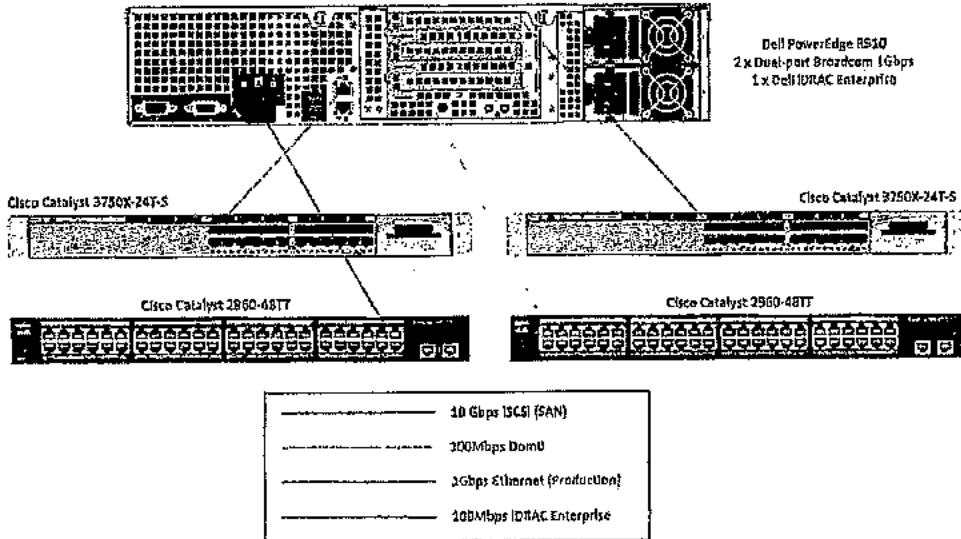
Eighteen of the servers are configured identically, as illustrated in the diagram below, and are designed to grow with the option for in place expansion of memory and network connectivity. While the Dell PowerEdge R610, a 1U server platform, is proposed with 32GB of RAM (8 x 4GB), the servers can be reconfigured to support up to 192GB using 16GB DIMMs. Each server includes dual 10Gbps iSCSI NICs as well as 2 x dual-port 1Gbps NICs for production and Dom0 connectivity. Connectivity to the iLo is via the dedicated iDRAC Enterprise port.



The remaining 2 servers, as illustrated in the diagram below, are the management servers providing logging and NMS services. These two servers will not be attached to the SAN, instead employing 8 x 2TB SATA drives for a total of 12TB of local storage on each server. These 2U servers also come with 32GB RAM, but can be upgraded to 128GB using 8 x 16GB DIMMs.

Servers that are iSCSI connected will have dual 10Gbps NICs to provide redundant paths across physically diverse hardware within the chassis. Production and management network connectivity will be provided by 2 x dual 1Gbps NICs. The production network will have redundant pathways at 1Gbps while the management network will employ redundant connections for Dom0 at 100Mbps, and a single 100Mbps for the iLo via iDRAC Enterprise.

60



All servers come equipped with redundant PDUs, iLo connectivity via the Dell iDRAC and 4 year technical support, including 4-hour on-site service for P1 issues.

Value Add:

By keeping all but the management servers connected to the SAN, disk space can be scaled across the entire environment ensuring no storage silos exist for a single server. The management servers were specifically excluded from the SAN to meet the build specifications, but should be considered for SAN inclusion by replacing the local storage with 10Gbps iSCSI NICs.

Note:

Each server provides dual-1Gbps connections to the production network. Teamed, these NICs can provide up to a 2Gbps connection, however access via NFS should be monitored to ensure that NFS traffic does not impede transactional traffic between nodes.

Storage on the management servers is isolated from the SAN and cannot be expanded except through server replacement or upgrade to include SAN connectivity.

4.2.2 STORAGE

Virgin Gaming requested a dual-interface/dual-controller SAN environment spread across two physical arrays in order to minimize the impact of any single component on the SAN environment. The SAN should have a minimum of 7TB usable disk space using 15K SAS drives. The environment must also support snapshots for backup and replication for off-site disaster recovery.

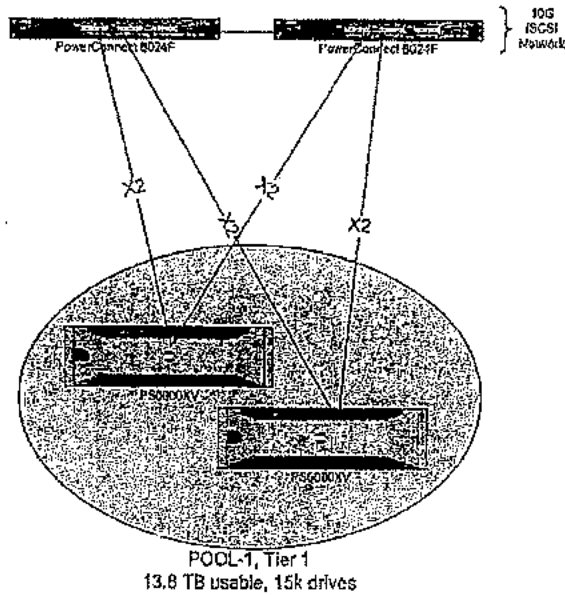
The proposed storage environment is as follows:

| Storage model | Qty | Controllers per array | Interfaces per controller | Protocol | Disks per array | RAID | Total Usable Capacity |
|--------------------------|-----|--|---------------------------|----------|-----------------|------|-----------------------|
| Dell EqualLogic PS6010XV | 2 | 2 in active/passive, 2 GB cache per controller | 2 x 10G | iSCSI | 16 x 600GB 15k | 50 | 13.8 TB |

| Software incl. | Support | Performance |
|--|---------------------------|---|
| SAN HQ, Snapshots, Clones, Replication | 4 Years, 7x24, 4h on-site | 1800 IOPS per array 50/50 read/write with small random IO |

The Dell EqualLogic PS6010XV, as illustrated in the diagram below, is configured in a RAID 50 array, or a mirrored set of RAID-5 arrays, spreading both fault tolerance and I/O across all controllers. The 13.8TB environment will support approximately 1800 IOPS per array and includes that ability to snapshot, clone and replicate data for backup and DR purposes. The Dell EqualLogic PS6010XV was specifically chosen because of its ease of upgrade while still providing Enterprise-level disk performance and fault-tolerance.

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Value Add:

Although the technical requirements only specified 7TB on the SAN, providing nearly 14TB across two arrays improved fault tolerance while increasing the storage base for snapshot and clones. By duplicating the environment, each SAN array can be isolated for both power and network connectivity to ensure the maximum uptime for each SAN.

Note:

The Dell EqualLogic platform, regardless of model, does not currently support native NFS exports from a dedicated head-end device. Dell will release a dedicated NFS head-end in Q3 2011 and can be implemented into the existing environment, but immediate NFS requirements will have to be met via an NFS VM.

Handwritten mark

Virgin Gaming

Proposal

4.2.3 NETWORKING

Virgin Gaming requires five (5) distinct networking environments to meet the production and operational support requirements of the computing platform. The five platforms are as follows:

- 1) 10Mb Internet connectivity (scalable to 100Mb)
- 2) 10Gbps redundant iSCSI connectivity for the SAN environment
- 3) 1Gbps redundant Ethernet connectivity for the production network (including NFS) with Layer-3 switching support
- 4) 100Mb for iLo (1 per server) and Dom0 (2 per server) connections
- 5) Serial connectivity for all network and storage environments

Each platform was designed to be completely redundant, isolating connectivity to each server and SAN across different physical devices contained within different physical rack space which, in turn, share redundant power. All devices are backed by 24x7 vendor support, including 4-hour on-site support, where required. All support is in addition to services offered by VisionQuest as part their service and support package.

The following networking environment is proposed to meet the current operational and future scalability requirements:

| Internet Connectivity | | Qty |
|-----------------------|---|-----|
| ASA5550-BUN-K9 | Cisco ASA 5550 Firewall Edition Bundle - Security appliance - Ethernet, Fast Ethernet, Gigabit Ethernet - 1U - rack-mountable | 2 |
| ASA-AC-E-5550 | Cisco AnyConnect Essentials VPN License for ASA 5550 - License - 5000 concurrent users - Win | 2 |
| iSCSI Network | | |
| 224-6406 | PowerConnect 8024F, 24 10 Gbps SFP+ Ports, Four Combo Ports | 2 |
| Production Network | | |
| WS-C3750X-24T-S | Cisco Catalyst 3750X-24T-S - Switch - L3 - managed - 24 x 10/100/1000 - rack-mountable | 2 |
| C3KX-PWR-350WAC/2 | Cisco - Power supply - redundant (plug-in module) - AC 100-240 V - 350 Watt | 2 |

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Virgin Gaming

Proposal

| | | |
|----------------------------|--|----|
| Management Network | | |
| WS-C2960-48TT-L | Cisco Catalyst 2960-48TT - Switch - managed - 48 x 10/100 + 2 x 10/100/1000 - rack-mountable | 2 |
| Serial Connectivity | | |
| SLC01622N-02 | Lantronix SecureLinux SLC16 - terminal server | 1 |
| ADP010104-01 | Lantronix serial RS-232 adapter - 10 cm | 16 |

4.2.3.1 Internet Connectivity

The Internet connectivity requirements are summarized as 10Mb (scalable to 100Mb) with the ability to handle a sustained 100,000 connections per second and a maximum of 10,000 new connections per second. In addition to the bandwidth and connection requirements, at least four (4) interfaces were required, per firewall, for connectivity into the computing environment.

VisionQuest recommends the Cisco 5550 as the platform of choice to meet and exceed the current requirements, as well as to provide the projected growth over the next 12 months. While the current needs could be met with the Cisco 5520 platform, growth within the platform would be limited by throughput, concurrent connections and physical connectivity. The relevant metrics are compared below for reference.

| Feature | Cisco ASA5520 | Cisco ASA5550 |
|---------------------|-------------------------------|---|
| Firewall Throughput | Up to 450 Mbps | Up to 1.2 Gbps |
| VPN Throughput | Up to 225 Mbps | Up to 425 Mbps |
| Concurrent Sessions | 280,000 | 650,000 |
| IPsec VPN Peers | 750 | 5000 |
| Interfaces | 4 Gigabit and 1 Fast Ethernet | 8 Gigabit, 4 SFP Fiber, 1 Fast Ethernet |

Virgin Gaming

Proposal

4.2.3.2 iSCSI Network

Paired with the Dell EqualLogic SAN arrays are the Dell PowerConnect 8024F 10Gbps switches. By coupling the Dell SAN and Dell switches together, a vendor compliant 10Gbps iSCSI SAN environment is provided that is supported, scalable and tested in the enterprise environment. Each PowerConnect provides 24 x 10Gbps connections, enough to provide redundant connectivity to every server in the current environment. When the environment needs to scale, expanding the iSCSI connectivity is as simple as adding an additional switch and expanding the environment to include the new devices via four (4) dedicated uplink connections.

The PowerConnect 8024F employs redundant hot-swap power supplies and cooling fans as well as dual firmware images. The switches provide wire speed L3 routing and 10Gbps connectivity for all 24 interfaces for a total of 480Gbps of throughput.

Note:

There are a total of 18 SAN connected servers, each with dual 10Gbps connections to the SAN. Each array has dual controllers, with each controller also having dual 10Gbps interfaces. Redundant connectivity in the SAN environment will consume 44 of 48 ports in the environment. While there are enough ports available to move the management servers into the SAN environment, or add an additional SAN array, future expansion would require additional switches.

4.2.3.3 Production Network

To support the production network environment, including the demand for L3 routing, VisionQuest recommends the Cisco 3750X-24T-8. An enterprise-class, stackable, layer-3 switch, the 3750X provides 24 x 1Gbps interfaces across a 160 Gbps switching fabric. Dual power supplies and the ability to stack the 3750X across a dedicated backplane make this is true enterprise-class switching platform.

Virgin Gaming

Proposal

Note:

The Virgin Gaming production computing network needs to support 20 servers with dual-1Gbps connections. Twenty servers with dual interfaces leave only four (4) gigabit interfaces per switch for expansion. As the connectivity of the load-balancers is unknown, it is assumed that they will connect to the production network at 1Gbps, further reducing the available ports by two (2) per switch. Future expansion of the production environment would require additional switches which can be uplinked across the backplane.

4.2.3.4 Management Network

The management network was specified to operate at 100Mbps within the proposed environment. As such, a separate switching environment is proposed to handle both the speed as well as the physical isolation of that network. However, in order to meet the management requirements for all of devices within computing environment, VisionQuest recommends the Cisco 2960-48TT-L. There are a total of 26 devices that require management connectivity, necessitating the move to the larger switch capacity. Employing the larger switches does allow for significant growth of the management plane without additional switches.

4.2.3.5 Serial Out-of-band Connectivity

In order to keep the production network fully isolated from the management network, yet still provide management of production devices, as well as the management network, firewalls and load-balancers, VisionQuest recommends using a Lantronix SecureLinx SLC16 serial terminal server. This 16 port device will aggregate up to 16 serial interfaces, using RJ-45 connections, into a single management platform. In the event of a management plane failure, accessibility to the failed devices will still be available from within the out-of-band platform.

Note:

While the Lantronix SecureLinx does provide OOB connectivity to each of the serial devices, connectivity to those devices still requires that the VPN connections to the hosted environment are available and accessible. Though not included in this proposal, VisionQuest recommends considering an additional VPN connection through a physically diverse environment to be able to

Virgin Gaming

Proposal

access the management plane. While the alternate connection would only be required in the event of a complete lockout of the standard management VPN, it would allow Virgin Gaming the option to connect to their environment outside of the scope and scale of their managed environment, but still within the confines of the ATC data center.

4.2.4 PHYSICAL RACKS

In keeping with the proposal demand for physically separate computing environments, VisionQuest recommends the use of the two (2) Dell 4220 42U racks. Each rack is equipped with 4 x 16A 120V PDUs to allow for a maximum cabinet draw of 40A or 4800watts. As the environment is approved and confirmed, and accurate hardware specifications to meet both current and future growth are agreed upon, these power requirements can and will change. The quoted PDUs are for pricing purposes only and should not be interpreted as a power constraint on the overall environment.

5.0 SERVICE PRICING

VisionQuest is pleased to offer the following preferred pricing to Virgin Gaming.

5.1.1 ONE-TIME SETUP FEE

There are no one-time setup fees. Virgin Gaming will be provided with an environment ready for installation and configuration of their virtualization software, operating systems, development environments and applications.

VisionQuest is pleased to offer Virgin Gaming the option of acquiring VisionQuest technical resources to provide, or to assist Virgin Gaming in providing, these installation or configuration services. These additional services would be billed to Virgin Gaming at a rate of \$125.00 per hour.

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Virgin Gaming

Proposal

5.1.2 ONGOING MONTHLY SERVICE FEE

The ongoing monthly fee for services for the term of the contract is as follows:

| Service Description | Monthly Fee |
|---|---------------|
| Server, Storage and Network Infrastructure as per Section 4 – Proposed Solution | |
| 10 Mb Dedicated Bandwidth | |
| 2 Cabinets in ATC Data Center with 120v * 20amp draw per cabinet | |
| Service Desk – 24/7/365 Readiness and Access plus Remote Hands for up to 8 Incidents or 4 hours per month | |
| Total Monthly Fees | 14.(1) |

Pricing is based on a four-year contract term. Applicable PST, GST or HST is not included.

Invoices will be submitted monthly to Virgin Gaming at the beginning of the month. Payment will be due twenty-one days from the date of the invoice.

5.1.3 ADDITIONAL PRODUCTS AND SERVICES

VisionQuest is pleased to offer Virgin Gaming the following additional value-added products and services.

| Service Description | Fee |
|---|-----------------------|
| VisionQuest technical resources to provide, or to assist Virgin Gaming in providing, server, SAN, network or security services | 14.(1) per hour |
| Service Desk – Remote Hands - additional services | (1) per hour |
| 10 Mb Redundant Dedicated Bandwidth | 14.(1) per month |
| Additional rack power requirements (based on current power rates -- rates may be adjusted higher or lower as required to consider future power rates) | 14. per amp per month |

Virgin Gaming

Proposal

6.0 REFERENCES

VisionQuest currently provides hosting and ASP services to a number of clients involving mission critical applications that support government and private sector operations and require 24/7/365 service. On a daily basis over 2,000 users are accessing VisionQuest provided infrastructure at the Atlantic Technology Centre from over 50 locations across Canada and many international locations, including: United States, Mexico, Dominican, Venezuela, Argentina, Chile, Australia, Indonesia, Mongolia, Tanzania, Turkey, Greenland, and China.

VisionQuest would be pleased to provide references on request that are applicable to your business activity and technology environment.

(2)

Non-Disclosure Agreement

This Non-Disclosure Agreement ("Agreement") is entered into as of the 31st day of May, 2011 (the "Effective Date") by and between Intertaintech Corporation o/a Virgin Gaming, an Ontario corporation with offices at 720 King St. W., Suite 820, Toronto, Ontario, M5V 2T8 and its affiliates (collectively "VG") and - Innovation PEI, located at 94 Euston Street, Charlottetown, PEI ("Company").

VG and Company agree as follows:

1. "Confidential Information" means any information which is confidential in nature or that is treated as being confidential by VG or any of VG's Affiliates ("VG"), whether such information is or has been conveyed to Company orally or in written or other tangible form. Without limiting the generality of the foregoing, Confidential Information shall include without limitation, (i) any trade secret, technical, financial or business information, data, idea, concept or know-how that is considered and treated as being confidential by VG, including but not limited to product information, marketing plans, business strategies, customer information, software and hardware, specifications, designs, proprietary formulae and algorithms; (ii) the fact that discussions between the Parties have been or are taking place; (iii) the fact that confidential information has been disclosed to Company; (iv) the existence or terms and conditions of this Agreement. Confidential Information disclosed in tangible or electronic form may be marked or otherwise identified by VG with a legend as being confidential, but in no event shall the absence of such a mark or legend relieve Company of the obligation to treat as confidential, information which would be considered confidential by a person exercising reasonable business judgment.
2. Company agrees to (a) hold the Confidential Information in confidence; (b) not copy or otherwise reproduce any Confidential Information, or disclose, disseminate or otherwise communicate in whole or in part any Confidential Information to any third party, *provided*, however, that Company may disclose Confidential Information to (i) his/her lawyers, accountants, financial and other professional advisors who are required by law, by contract or otherwise to keep all confidential information disclosed to them in confidence to at least the same extent as Company is bound to keep Confidential Information in confidence hereunder, and (ii) to other persons with VG's prior written consent; (c) use such Confidential Information solely for the purposes for which it was disclosed; and (d) to the extent applicable, not modify, reverse engineer, decompile, create other works from, or disassemble any such Confidential Information.
3. The restrictions in Section 2 will not apply to Confidential Information to the extent that Company can demonstrate by written records and in reasonable detail that such Confidential Information: (a) was readily publicly known at the time of disclosure through no breach of any obligation of confidence or any act of Company; (b) became publicly available after disclosure to Company without breach of this Agreement; (c) was lawfully received by Company from a third party without such restrictions prior to its receipt from VG; (d) was known to Company without such restrictions prior to its receipt from VG; (e) was independently developed by Company without breach of this Agreement; (f) was generally made available to third parties by VG without such restriction; or (g) is required to be disclosed by Company pursuant to judicial order or other compulsion of law, provided that Company will provide to VG prompt notice of such order and comply with any protective order imposed on such disclosure. Further, notwithstanding that any portion of VG's Confidential Information may fall within any of the exemptions stated in (a) - (g) above, Company shall continue to be liable for disclosure or use of any combination of VG's Confidential Information that contains such portion unless the entire combination falls within such exemptions.
4. VG acknowledges that Company may currently be developing, or may develop in the future, products or information from third parties that may be similar to VG's Confidential Information. Accordingly, nothing in this Agreement will be construed as a representation that Company will not develop, communicate or use technology, information or products that, without violation of this Agreement, compete with or are the same or similar to the technology, information or products contemplated by VG's Confidential Information.
5. Upon written request by VG, all copies of Confidential Information in the possession of Company will be returned to VG or, at VG's option, destroyed.
6. VG shall not, by the execution and delivery of this Agreement or otherwise, be required to disclose any particular information to Company, and any disclosure pursuant to this Agreement does not, in of itself: (a)

create warranties or representations of any kind; (b) create a commitment as to any product, service or prospective business relationship; (c) constitute solicitation of any business or the incurring of any obligation not specified herein; or (d) constitute a license or transfer of ownership of any intellectual property rights of VG except as expressly provided herein.

7. This Agreement is effective as of the Effective Date and may be terminated by either party at any time upon written notice. However, Company's obligations under Section 2 with respect to VG's Confidential Information that has been disclosed to Company during the term of this Agreement will survive any such termination unless and until all Confidential Information falls within Section 3. In addition, Section 5 and Section 8 will survive any termination of this Agreement.

8. This Agreement supersedes all previous agreements between the parties regarding the Confidential Information and can not be delegated, assigned or modified except by written agreement of both parties. This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada as applicable therein and the parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario.

9. All notices, requests and other communications called for by this Agreement are to be delivered to the address of each party first indicated above, and will be deemed to have been given the next business day if made by fax or email (in either case confirmed by concurrent written notice sent First-Class Mail, postage prepaid) if to VG at the fax number or email address below, with a copy to General Counsel at Legal@virgingaming.com, and if to Company at the fax number or email address set out below, or to such other fax numbers or addresses as either party may specify to the other in writing. Notice by any other means will be deemed made when actually received by the party to which notice is provided.

10. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall comprise a single instrument. A signature delivered by facsimile or a .pdf file via email shall be deemed to be an original.

IN WITNESS WHEREOF, VG and Company, by their duly authorized representatives, have executed and delivered this Agreement as of the Effective Date.

INTERTAINTTECH CORPORATION o/a VIRGIN GAMING

By: _____
Name: _____
Title: _____
Email: _____
Fax: _____

[pls insert full legal name of company]

By: Innovation PEI
Name: Brad Mix *Brad Mix*
Title: Senior Director
Email: bdmix@gov.pe.ca
Fax: 902-368-6301

Innovation PEI

(2)

2011/2012
201106-11

CLIENT INFORMATION

| | | | |
|-----------------|---|----------------|---------------------|
| Client Name | Virgin Gaming | Sector | IT & Communications |
| Contact Person | Harp Gahuria | Telephone | (416) 800-4263 |
| Address | 720 King Street West, Suite 820 Toronto ON, M5V 2T3 | Fax | (416) 981/7241 |
| WebSite Address | virgingaming.com | E-Mail Address | |

PROJECT DESCRIPTION

| | | | |
|-----------------|---------------------------|---------------------------|------------------------------------|
| Project Title | New Office location - PEI | | |
| Project Officer | Brad Mix | Division | Business Investment |
| Jobs Planned | 35 | Jobs Maintained | 25 |
| Start Date | 01 Jul 2011 | Completion Date | 31 Jul 2013 |
| | | Exporting | <input type="checkbox"/> |
| | | Electoral District | (12) Charlottetown - Victoria Park |
| | | Application Received Date | 27 May 2011 |

COMMUNICATIONS:

| | | | | | |
|-----------------------------------|-----|-------------|-----------------|--------------|-----|
| External Communications Required: | Yes | Time Frame: | At a Later Date | Sensitivity: | Yes |
|-----------------------------------|-----|-------------|-----------------|--------------|-----|

AUTHORIZATION:

Officer Recommendation: Brad Mix Date: 06/03/11

Director Authorization: Brad Mix Date: 06/03/11

Chief Executive Officer Authorization: [Signature] Date: June 6/2011

Deputy Minister: [Signature] Date: June 7/11

Minister: _____ Date: _____

REQUESTED INNOVATION PEI PARTICIPATION

| Program | Client Contribution | Other Govt. | Innovation PEI Contribution | Total |
|--------------------------|---------------------|-------------|-----------------------------|---------------------|
| PEI Labour Rebate - 7950 | | | | |
| IDLR | 820,312.00 | 0.00 | 492,188.00 | 1,312,500.00 |
| | <u>820,312.00</u> | <u>0.00</u> | <u>492,188.00</u> | <u>1,312,500.00</u> |

SUMMARY:

Summary:
Virgin Gaming is looking to relocate 35 positions and it's production servers to Charlottetown, specifically the Atlantic Technology Centre. The move would generate up to 35 jobs at an annual salary of \$37,500. Total payroll would be \$1,312,500. The company is requesting a labour rebate on first year positions at the rate of 37.5% over two years for a maximum contribution of \$492,188. In addition, the company is seeking a 10 year rebate on the provincial portion of corporate income tax. The rebate will be repayable if the company does not maintain 15 positions in PEI until December 31, 2013.

Background:
Virgin Gaming is the premier online destination for competitive console gamers of all skill levels to meet, challenge and play against other console gamers in online gaming tournaments. The competitive gaming industry is in its infancy and Virgin Gaming is at the forefront, and have

differentiated themselves from competitors through their skill rating system, game validator, and publisher partnerships. They currently have partnership agreements with some of the largest publishers in the industry, including Electronic Arts, Ubisoft, Code Masters, and Sony. These partnerships are instrumental to the company's growth strategy as they are designed to motivate publishers to work with Virgin Gaming to drive traffic to its platform. This objective is achieved through in-game integration, co-marketing initiatives, and exclusivity. As the company continues to further embed themselves into titles offered on their website, they anticipate exponential growth over the coming years.

The Project:

As part of Virgin Gaming's expansion strategy, they are interested in moving all of their production servers to the ATC in Charlottetown as soon as possible. Moving their production servers would result in payments in excess of \$55k annually to the ATC, with an expected increase as the company grows.

Virgin Gaming is also evaluating a potential move of their customer service group to Prince Edward Island. Timing for this potential move has yet to be determined and would be dependent upon the availability of skilled labor force and appropriate infrastructure in PEI. A move of this nature would result in up to 35 jobs moving to PEI by 2013 at an average wage of \$37,500 per annum.

The Positions

Virgin Gaming would require the following skill sets, must have a high school diploma, must be a console gamer and an understanding of gaming, must have 1-2 years experience working in a customer service environment.

Ownership and Management:

Rob Segal, CEO

Billy Levy, President

Harp Gahunia, CFO

Richard R.N. Branson, Founder of Virgin Group

Virgin Gaming PEI will be wholly owned subsidiary of Intertech Corporation which is owned 100% by WG LTD.

Project Costs

35 positions

Average Annual Salary \$37,500

Annual Payroll \$1,312,500

IDLR @ 37.5% = maximum of \$492,188 over two years

Virgin Gaming Financials

- in February 2011, WG Limited was able to raise \$9M in equity investment.

- At September 30, 2010, total revenue for 2010 of \$67,615, loss from operations of \$7,447,476, cash on hand of \$1,970,933

Recommendation

It is recommended Innovation PEI participate in providing Virgin Gaming an IDLR at the rate of 37.5% over two years for a maximum contribution of \$492,188.

7



Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

July 11, 2019

2019-031 EDT

BY E-MAIL kja321@gmail.com

Kevin J. Arsenault
32 Father Brady Lane
Fort Augustus, PE C1B 0X8

Dear Mr. Arsenault:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

Further to our letter dated June 14, 2019, enclosed please find responsive records to your request submitted to the Department of Economic Development and Tourism (now Department of Economic Growth, Tourism and Culture), as follows:

"In her Special Report on E-gaming, the Auditor General, in section 3.34, notes that "The application for this grant was a short e-mail dated January 28, 2013." She also mentions an "approval sheet" and "grant agreement" prepared by Innovation PEI for this grant. As well, she mentions a "Letter of Offer" for the grant. I am requesting a copy of each of these documents, along with all other documentation in the physical files relating to this grant not mentioned by the Auditor General, as well as all documentation from or to, David Mackenzie, Neil Stewart, Melissa MacEachern, that mentions this grant. September 1, 2012 to February 28, 2013"

Some of the records you requested contain information that is protected from disclosure under the Act. We have protected the information so that we may disclose to you the remaining information in the records. The information is protected from disclosure under the following section(s) of the Act:

- 14(1), disclosure harmful to business interest of a third party;
- 23(2), disclosure harmful to economic and other interests of a public body; and
- 25(2), privileged information.

Please note that records that fall outside of the scope of the Act pursuant to clause 4(1)(c) have been excluded.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

Attachment

c: APSO

8

Cheryl Paynter - migmaw confederacy

From: Neil Stewart
To: MacEachern, Melissa; Paynter, Cheryl
Date: 1/3/2013 10:41 PM
Subject: migmaw confederacy

advice to officials, access protected.

Deputy/Cheryl,

IIDI a number of years ago provided a loan commitment to the migmaw confederacy for \$950,000 for work on the internet gaming initiative.

IIDI has \$850,000 in monies disbursed on this. There is approx \$290,000 in bills left to be paid to McInnis Cooper (I don't have my notes here at home but the numbers are close)

I spoke to David Arsenault on this the week before christmas. Where David has arrived is (1) he is asking IIDI to disburse our remaining \$100K to Migmaw Confederacy which in turn will be paid to McInnis Cooper. (2) he is looking to sell \$60K of the work to Atlantic Lotto. This money will go to reduce McInnis's bill. (3) he is asking that IPEI provide a grant to the Migmaw Confederacy of \$100K with the funds going to this bill. (4) McInnis will write off \$30K.

I advised David I would communicate this request to you. I am handling the loan component.

Melissa, there is an additional matter which is treasury's guarantee of our debt. David has asked that IIDI absorb this loan loss (\$950,000) in our loss provision rather than call on treasury. I advised David that I would have to look at our provision to see what room we had but that there likely is room but it is tight. David is aware that if this makes our provision too tight, we will simply take additional provision and it will reduce the net income that IIDI was supposed to have per our budget.

Bruce and I can assist IPEI in writing the grant. however, I suspect you will wish to speak about this directly to David or myself so I will wait until I hear from you or Cheryl on the matter.

Neil Stewart CA
 Chief Executive Officer
 Finance PEI
 P.O. Box 910
 Charlottetown, PEI C1A 7L9
 Phone (902) 368-5865 Fax (902) 368-6255

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Innovation PEI

2012/2013
201301-53

CLIENT INFORMATION

| | | | |
|-----------------|--|----------------|----------------|
| Client Name | Mikmaq Confederacy of PEI | Sector | General |
| Contact Person | Sandra Gaudet | Telephone | (902) 626-2882 |
| Address | 199 Grafton Street Charlottetown PE, C1A 1L2 | Fax | |
| Website Address | | E-Mail Address | |

PROJECT DESCRIPTION

| | | | |
|-----------------|---|---------------------------|--------------------------|
| Project Title | Partner on economic development opportunities | | |
| Project Officer | Rupert Sweatapple | Division | Client Services |
| Jobs Planned | N/A | Exporting | <input type="checkbox"/> |
| Jobs Maintained | N/A | Electoral District | (00) Province Wide |
| Start Date | 01 Jan 2012 | Completion Date | 31 Jan 2013 |
| | | Application Received Date | 01 Jan 2012 |

COMMUNICATIONS:

| | | | | | |
|-----------------------------------|----|-------------|-----|--------------|----|
| External Communications Required: | No | Time Frame: | N/A | Sensitivity: | No |
|-----------------------------------|----|-------------|-----|--------------|----|

AUTHORIZATION:

Officer Recommendation : _____ Date: Jan 28/13 *MH*

Director Authorization: _____ Date: Jan 28/13

Chief Executive Officer Authorization: _____ Date: Jan 28/13

Deputy Minister: _____ Date: _____

Minister: _____ Date: _____

REQUESTED INNOVATION PEI PARTICIPATION

| Program | Client Contribution | Other Govt. | Innovation PEI Contribution | Total |
|-------------------------|---------------------|-------------|-----------------------------|------------|
| Development Fund - 7500 | | | | |
| Professional fees | 0.00 | 0.00 | 100,000.00 | 100,000.00 |
| | 0.00 | 0.00 | 100,000.00 | 100,000.00 |

SUMMARY:

The objective of this grant application on behalf of MCEI is for one time funding to address an economic growth opportunity. The grant will add capacity and allow MCEI to explore further opportunities in economic development.

The grant uses will include:

- the development of the economic priorities of the PEI Mikmaq Governments as well as the Province of PEI.
- proceed with project opportunities of significance to both the Mikmaq and PEI Governments.
- leverage of funding programs available for the PEI/Mikmaq partnership.
- create benefits for Islanders and the Mikmaq people.
- creation of Provincial/Aboriginal and other economic development partnership models.

A strategic objective will be to examine the opportunity to leverage resources from Canada in order to create greater investment in both the Province of PEI and Mi'kmaq communities. Currently, there is a wide variety of Federal funding programs available to First Nations and their peoples, with an increasing number of targeted private sector investment programs being created. These alternative funding mechanisms are unique to First Nations and not accessible by any other Governments, thus creating a largely untapped source of investment capital for the Province and the Mi'kmaq people of PEI.

A key deliverable will be options and governance models for the creation of a formal partnership between the Mi'kmaq and PEI Governments to access this untapped investment resource.

Overall cost of the project is projected at \$100,000. Innovation has been requested to provide 100% of the funds.

BACKGROUND

In recognition of Mi'kmaq rights, the Mi'kmaq Confederacy of PEI unifies the Abegweit First Nation and the Lennox Island First Nation in protecting, enhancing and strengthening the Mi'kmaq Nation in Prince Edward Island.

The Mi'kmaq Confederacy of PEI promotes knowledge and understanding of these rights, conducts research, develops and implements initiatives and builds relationships necessary to resolve issues in a cooperative manner. They uphold and sustain the principles of unity, cooperation, partnership, trust, respect, and integrity.

The Mi'kmaq Confederacy of PEI Board mandated the organization to provide technical and advisory support with regards to the implementation of Mi'kmaq treaty and Aboriginal rights in Prince Edward Island. They promote understanding and respect between Mi'kmaq and non-Mi'kmaq partners through initiatives that continually shed light on and address issues that affect the Mi'kmaq conditions.

Rupert Sweetapple - Grant Application

From: Don MacKenzie <dmackenzie@mcpei.ca>
To: Rupert Sweetapple <rcsweetapple@gov.pe.ca>
Date: 1/28/2013 4:32 PM
Subject: Grant Application

M117

Hi Rupert. Further to our conversations, please let this email serve as a grant application on behalf of MCPEI for one time funding to address an economic growth opportunity. The grant will add capacity and allow MCPEI to explore further opportunities in economic development. Please let me know if you have any questions.

DKM

Donald K. MacKenzie
Senior Legal Advisor and Director of Intergovernmental Affairs
Mi'kmaq Confederacy of PEI
Poly Clinic
Suite 501
199 Grafton Street
Charlottetown, PE
C1A 1L2
Tel: (902) 626-2882
Direct: (902) 626-3345
Fax: (902) 367-3779
E-mail: dmackenzie@mcpei.ca
Website: www.mcpei.ca

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Page 05 of 18

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sont retenues en vertu de l'article

23.12)

of the Freedom of Information and Protection of Privacy Act

Page 06 of 18

withheld pursuant to section
sans révéler en vertu de l'article

25 (2)

of the Freedom of Information and Protection of Privacy Act




January 28, 2013

Mikmaq Confederacy of PEI
199 Grafton Street
Charlottetown, PE C1A 1L2

Attention: Sandra Gaudet

Dear Ms. Gaudet:

RE: Development Fund – Project # 201301-53

We are pleased to advise that the Prince Edward Island Government, through Innovation PEI (the "Corporation"), has approved your request for financial assistance on behalf of Mikmaq Confederacy of PEI (the "Company") in respect of your application under the referenced program. The terms and conditions under which the financial assistance (the "Contribution") has been approved are outlined hereunder. Once accepted, this letter shall form a binding agreement (the "Agreement").

This Contribution has been authorized subject to the Company undertaking the development of an economic growth opportunity (the "Project") and to the pertinent requirements, definitions and limitations of the program as stated hereunder.

Assistance of up to \$ 100,000 has been approved to assist the Company with Eligible Costs associated with the Project, per the Proposal (the "Application") dated January 28, 2013.

Payment will be based on actual Eligible Costs as determined at the time of your request for reimbursement, but in no event shall it exceed the maximum amount specified. The estimate of Eligible Costs relative to this Project is outlined in Schedule I of this offer and is summarized as follows:

| Total Project Costs | Eligible Project Costs | Company Contribution | Corporation Contribution |
|---------------------|------------------------|----------------------|--------------------------|
| \$ 100,000 | \$ 100,000 | \$ 0.00 | \$ 100,000 |

1.0 DEFINITIONS

For the purpose of this Agreement:

- 1.1 **Eligible Costs** means those reasonable and proper costs of the Project delineated in Schedule I which have been accepted by the Corporation in accordance with generally accepted accounting principles excluding the following items:

- (a) allocated cost or value of goodwill;
- (b) any portion of the cost of an asset, that, in the opinion of the Corporation, exceeds the fair market value of the asset;
- (c) GST or any other federal or provincial tax which may be eligible to be fully or partially refunded;

1.2 **Project** means the specified activities, work or undertaking described in the Company's Application and summarized in Schedule I.

2.0 **PAYMENT**

2.1 The Contribution shall be disbursed upon evidence, satisfactory to the Corporation, that the Company is complying with the terms and conditions of this Agreement.

2.2 Payments to the Company shall occur as follows:

- (a) The payment of \$ 100,000 representing 100% of the Contribution, is payable directly to the Mikmaq Confederacy of PEI within 10 days following presentation to the Corporation of a vendor invoice(s).

2.3 The Corporation, in its discretion, reserves the right to adjust or revoke the Contribution if the Project has not been completed or achieved the agreed upon results. The Company may be responsible to repay to the Corporation, upon demand, any payments already disbursed under this Project.

2.4 The Company agrees that any Contribution due to it under this Agreement is to be applied:

- (a) Firstly, to any outstanding loan that the Company may have with any Department or Agency of the Province of Prince Edward Island;
- (b) Secondly, to any amount that is owing as a result of a defaulted financial obligation the Company may have with any Department, or Agency, of the Province of Prince Edward Island;
- (c) Thirdly, to the Company.

The Contribution may not be assigned to any entity except a Department or Agency of the Province of Prince Edward Island, and the Corporation will not acknowledge or give effect to any assignment contrary to this clause 2.4

3.0 **ADDITIONAL CONDITIONS**

3.1 In addition to the foregoing, the Company agrees to the following conditions:

- (a) To commence work on the Project on or after January 1, 2012;
- (b) To complete the Project not later than January 31, 2013;

If you require more time to complete your Project, you must provide details in writing and request an extension, or our assistance could be withdrawn.

- (c) Release of information relating to the funding of this Project may be made under the terms and conditions of this Agreement. No announcements may be made without written approval of the Corporation;
- (d) Not to alter the scope of the Project without the prior written approval of the Corporation;
- (e) To permit any authorized representative of the Corporation reasonable access to the Association's premises to inspect and assess the progress and results of the Project;
- (f) To preserve and keep available for audit the books, accounts and records of the costs of the Project for 36 months after the completion of the Project and supply such statistical data as may be required by the Corporation;
- (g) Within 90 days after its year-end, the Company shall file with the Corporation its annual financial statement as prepared by a qualified accountant. Annual financial statements will be required to be submitted to the Corporation for three consecutive years following completion of the Project;
- (h) To maintain insurance throughout the lifetime of the conditional contribution in an amount and manner not less than that deemed necessary by the Corporation;
- (i) To obtain all necessary environmental clearance certificates, building permits, licenses, etc., as required by applicable Federal, Provincial, and Municipal regulatory bodies and agencies, and as well, obtain a signed, written lease agreement for the real property if being leased;
- (j) That good standing be maintained with the Consumer, Corporate and Insurance Division of the Office of the Attorney General during the lifetime of the conditional contribution;
- (k) That the Company shall indemnify and save the Corporation harmless from all claims, demands, actions and causes of action of third parties that may arise out of this Project;
- (l) No member of the Legislative Assembly shall be admitted to any part, or share of this Agreement or to any benefits to arise there from;
- (m) That the Corporation may decline to contribute to any cost incurred prior to January 2, 2010;
- (n) To further assist in economic development in P.E.I., the Company shall purchase all capital and operating materials, supplies, and services from local P.E.I. firms providing such firms are able to provide same at competitive costs and provide equal quality and service;

4.0 OTHER GOVERNMENT ASSISTANCE

4.1 The Company will inform the Corporation promptly, in writing, of any further Federal, Provincial, or Municipal assistance to be received for the Project. The Corporation shall have the right to adjust the amount of the Contribution to take into account the amount of any such further assistance that is to be received.

5.0 JURISDICTION

5.1 This Agreement shall be governed by and construed according to the laws of the Province of Prince Edward Island, and the federal laws of Canada applicable therein, and no action or proceeding shall be brought to construe or enforce this Agreement except in those courts having jurisdiction in the Province of Prince Edward Island.

6.0 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

6.1 Information contained in and collected in relation to this Agreement is subject to, and will be treated in accordance with, the Prince Edward Island Freedom of Information and Protection of Privacy Act. The amount of the grant may be disclosed at the discretion of the Corporation and in accordance with the Freedom of Information and Protection of Privacy Act R.S.P.E.I. 1988, Cap. F-15.01. For additional information see <http://www.gov.pe.ca/foipp>.

7.0 NOTICE

7.1 Any notice or correspondence to the Corporation, including all inquiries with respect to this Agreement, should be directed to:
Rupert Sweetapple
Business Development Officer, Queen's County
Innovation PEI
PO Box 910
Charlottetown, PE C1A 7L9
Phone: (902) 368-5667 Fax: (902) 368-6301
Email: rcsweetapple@gov.pe.ca

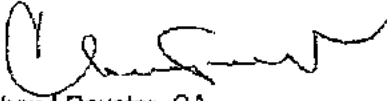
8.0 ENTIRE CONTRACT

8.1 This Agreement may be executed in one or more counterparts and by the different parties to it on separate counterparts, each of which, when so executed will be deemed to be an original; such counterparts, together, will constitute one and the same Agreement. This Agreement may be executed and delivered by fax or email pdf transmission of a manually signed counterpart.

8.2 The Company will note that at the bottom of this Agreement there is an acknowledgement and approval to be signed by the principal(s) of the Company. If it is the Company's intention to accept this offer under the terms outlined, please have this signed, witnessed, and return one original to the Corporation by February 28, 2013.

We are looking forward to the successful completion of this Project.

Sincerely,



Cheryl Paynter, CA
CEO
Innovation PEI

The undersigned, Mi'kmaq Confederacy of PEI, does hereby accept this offer and agrees to all of the terms contained herein.

Dated the 6th day of February, 2013.

Signed and delivered in the presence of:

Mi'kmaq Confederacy of PEI



Witness

Per: Sandra Landis

Per: _____

SCHEDULE 1**PROJECT DESCRIPTION:**

Mi'kmaq Confederacy of PEI (the "Company") will develop of an economic development opportunity. Activities will begin January 1, 2012, and continue through January 31, 2013.

COMPANY: Mi'kmaq Confederacy of PEI

PROJECT: Develop economic development opportunities PA # 201301-53

PROJECT COST BREAKDOWN

| Eligible Project Items | Estimated Cost | Eligible Expense | Rate | IPEI Contribution |
|-------------------------------|-----------------------|-------------------------|-------------|--------------------------|
| Professional fees | \$ 100,000 | \$ 100,000 | 100% | \$ 100,000 |
| Total | \$ 100,000 | \$ 100,000 | | * \$ 100,000 |

* Cannot exceed the maximum Corporation Contribution.

Innovation PEI

Project Disbursement Checklist and Cheque Requisition

| | | |
|----------|------------------------------------|---------------------------|
| PAYEE: | <i>Mil'kmaq Confederacy of PEI</i> | Meinnis Geoper |
| ADDRESS: | Charlottetown, PE | |

| VENDOR NUMBER | INVOICE NUMBER | INVOICE DATE | PA NUMBER |
|---------------|----------------|--------------|-----------|
| 14.(1) | 201217229 | Jan 30/13 | 201301-53 |

| | | |
|--|--------------------|--------------|
| Client Name: Mil'kmaq Confederacy of PEI Project Title: Partner on economic development opportunities Project Officer: Rupert Sweetapple | TOTAL COMMITMENT | \$100,000.00 |
| | PREVIOUS ADVANCE | \$0.00 |
| | PREVIOUS REVERSALS | \$0.00 |
| | THIS ADVANCE | \$100,000.00 |
| | REVERSAL | \$0.00 |
| | BALANCE TO ADVANCE | \$0.00 |

| DESCRIPTION | ACCOUNT CODE | AMOUNT |
|-------------------|--------------|---------------------|
| Professional fees | 7500 | 100,000.00 |
| Total GST | 1110 | 0.00 |
| TOTAL | | \$100,000.00 |

Authorization:

Terms and conditions of the letter of offer have been fulfilled by client.
 Evidence of expenditures has been reviewed and is on file.
 I certify that everything is in order to issue the above noted payment
 Payment Approved by:

Initials: *[Signature]*
 Initials: *[Signature]*
 Signed: *[Signature]*
 Signed: *[Signature]*
 Dated: *Jan 30/13*

Notes

Notes area (empty)

Return for Letter ? Yes No To Whom ? *Rupert / Cheryl*

Office Use Only

| Reviewed | Posted to Adagio | Posted to TEA | Posted to GB | Project Number | Reversal | Amount |
|---------------|--------------------|---------------|--------------------|----------------|----------|--------------|
| <i>LOD to</i> | <i>[Signature]</i> | | <i>[Signature]</i> | 201301-53 | \$0.00 | \$100,000.00 |

Conrad

Page 14 of 18

withheld pursuant to section
sont retenues en vertu de l'article

25.(2)

of the Freedom of Information and Protection of Privacy Act

Page 15 of 18

withheld pursuant to section
sont retenues en vertu de l'article

23.(2)

of the Freedom of Information and Protection of Privacy Act

85

078904

| INVOICE # | DESCRIPTION | NET AMOUNT PAID |
|---|----------------------------|-----------------|
| 201217229 | ENT. DEVELOPMENT 201301-53 | 100,000.00 |
| <i>voided on system changed to different Vendor</i> | | |
| TOTAL > | | 100,000.00 |

PAY ***** One Hundred Thousand and 00/100 *****

TO THE ORDER OF
 MCINNES COOPER
 119 KENT STREET
 CHARLOTTETOWN
 PE
 C1A 1N3

DATE: Jan 31 2013
 AMOUNT: 100,000.00

⑈078904⑈ 23.(1)

INNOVATION PEI
 VENDOR NO: 14.(1) VENDOR NAME: MCINNES COOPER CHECK DATE: Jan 31 2013

| INVOICE # | DESCRIPTION | NET AMOUNT PAID |
|-----------|----------------------------|-----------------|
| 201217229 | ENT. DEVELOPMENT 201301-53 | 100,000.00 |
| TOTAL > | | 100,000.00 |

THIS CHECK IS VOID WITHOUT A BLUE & RED BACKGROUND AND A TRUE WATERMARK - HOLD UP TO THE LIGHT TO VERIFY

INNOVATION PEI
 P.O. BOX 910
 Charlottetown, PE C1A 7L9
 (902) 368-6300

078904

DATE 20130131
 Y Y Y M M D D

PAY ***** One Hundred Thousand and 00/100 ***** DOLLARS 100,000.00

TO THE ORDER OF
 MCINNES COOPER
 119 KENT STREET
 CHARLOTTETOWN
 PE
 C1A 1N3

CHECK IS PRINTED ON SECURITY PAPER WHICH INCLUDES A MICROPRINT BORDER & FLUORESCENT FIBERS

⑈078904⑈ 23.(1)

| INVOICE # | DESCRIPTION | NET AMOUNT PAID |
|-----------|----------------------------|-----------------|
| 201217229 | ENT. DEVELOPMENT 201301-53 | 100,000.00 |
| TOTAL > | | 100,000.00 |

INNOVATION PEI
VENDOR NO: 1470

VENDOR NAME: MIKMAQ CONFEDERACY OF PEI INC

CHECK DATE: Jan 31 2013
078931

PAY ***** One Hundred Thousand and 00/100 *****

TO THE ORDER OF
MIKMAQ CONFEDERACY OF PEI INC
199 GRAFTON ST., SUITE 501
CHARLOTTETOWN, PE
C1A 1L2

| | |
|--------|-------------|
| DATE | Jan 31 2013 |
| AMOUNT | 100,000.00 |

078931

23 (1)

9



Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

July 11, 2019

2019-035

BY E-MAIL kia321@gmail.com

Kevin J. Arsenault
32 Father Brady Lane
Fort Augustus, PE C1B 0X8

Dear Mr. Arsenault:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

Further to our letter dated June 14, 2019, enclosed please find responsive records to your request submitted to the Department of Economic Development and Tourism (now Department of Economic Growth, Tourism and Culture), as follows:

"In December, 2010, a grant was issued to the Mi'Kmaq Confederacy of Prince Edward Island by Innovation PEI. The Auditor General stated in Section 3.32 of her Special Report on e-gaming that "...in late 2010, as the e-gaming project was progressing, MCPEI contacted Innovation PEI requesting an additional grant," and that "Staff took the information request to the CEO, at the time, who approved a further grant of \$100,000 to MCPEI in December, 2010." I am requesting a copy of all documents contained in the physical subject files that make mention of this grant including, but not limited to the "letter of offer"; "the grant agreement"; "the approval sheet"; "the budget"; "the initial communication between MCPEI and staff, as well as any subsequent communications." September 1, 2010 to January 31, 2011"

Some of the records you requested contain information that is protected from disclosure under the Act. We have protected the information so that we may disclose to you the remaining information in the records. The information is protected from disclosure under the following section(s) of the Act:

- 14(1), disclosure harmful to business interests of a third party;
- 15(1), disclosure harmful to personal privacy;
- 23(1), disclosure harmful to economic and other interests of a public body; and
- 25(2), privileged information.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

Attachment

c: APSO

10

Page 04 of 70
withheld pursuant to section
sont retenues en vertu de l'article
25.(2)
of the Freedom of Information and Protection of Privacy Act

innovationpei

innovationîpé

December 20, 2010

PEI Mi'kmaq Development Corporation Inc.
P.O. Box 134
Lennox Island, PE C0B 1P0

Attention: Don MacKenzie

Dear Mr. MacKenzie:

RE: Enterprise Development Fund
Our File # 201012-35

On behalf of the Honourable Allan Campbell, Minister responsible for Innovation PEI ("the Corporation"), we are pleased to advise you that your application under the Corporation's Enterprise Development Fund has been approved.

This contribution has been authorized subject to the PEI Mi'kmaq Development Corporation Inc. ("the Company") engaging a local law firm to assist with the legal and logistical details of implementing the findings ("the Project") of the "Regulatory and Compliance Framework" study previously undertaken, and to the pertinent requirements, definitions and limitations of the program as stated hereunder.

1.0 AMOUNTS/LIMITATIONS

- 1.1 Assistance of up to \$100,000 has been approved and has been calculated at the rate of 80 percent of eligible project costs estimated at the time of the Project's evaluation.
- 1.2 Payment will be based on actual eligible project costs as determined at the time of your request for reimbursement, but in no event shall it exceed the maximum amount specified above.

2.0 DEFINITIONS

- 2.1 For the purpose of this Offer:

Eligible Project Costs mean those reasonable and proper costs of the Project which have been accepted by the Corporation in accordance with generally accepted accounting principles excluding the following items:

PEI Mi'kmaq Development Corporation Inc
 December 20, 2010
 2 | P a g e

- (i) cost of land;
- (ii) allocated cost or value of goodwill;
- (iii) any motorized vehicle;
- (iv) any portion of the cost of an asset, that, in the opinion of Prince Edward Island Business Development Inc., exceeds the fair market value of the asset;
- (v) GST or any other federal or provincial tax which may be eligible to be fully or partially refunded.

Project means the work or undertaking described in your application.

3.0 PAYMENT

- 3.1 The contribution to the Company shall be paid to the Company on presentation of a copy of the consultant's invoice for services rendered in accordance with the consulting engagement.

4.0 OTHER REQUIREMENTS AND CONDITIONS

- 4.1 The release of information relating to the funding of this Project may be made under the terms and conditions of this Offer. No announcements may be made without written approval of the Minister responsible for the Corporation.
- 4.2 Within 2 days of the Company's receipt, the Company agrees to provide the Corporation with a copy of all draft, interim, and final reports developed under this Project and grants the Corporation permission to use the findings of the studies, and associated intellectual property.
- 4.3 The Company shall permit any authorized representative of the Corporation reasonable access to the Company's premises to inspect and assess the progress and results of the Project.
- 4.4 The Company shall preserve and keep available for audit, the books, accounts and records of the costs of the Project for 36 months after the completion of the Project and supply such statistical data as may be required by the Corporation.
- 4.5 During a three year period after payment of the first advance, the Corporation shall have the right to monitor the performance of the Company and the Company shall be required upon receipt to submit or make available to the Corporation upon request annual financial statements prepared by a professional accountant.
- 4.6 The Company agrees that the Corporation may decline to contribute to any cost incurred prior to January 1, 2010.
- 4.7 Amounts due and payable under this Offer may, at the option of the Corporation, be retained for application to company obligations due to the Corporation.

PEI M'kmaq Development Corporation Inc
December 20, 2010
3 | Page

- 4.8 Assignment by the Company of the proceeds under this Offer as security to third parties shall not be valid without prior express written acknowledgement from the Corporation.
- 4.9 The Company agrees to maintain insurance throughout the lifetime of the Offer in an amount and manner not less than that deemed necessary by the Corporation.
- 4.10 The Company agrees to obtain all necessary environmental clearance certificates, building permits, approvals, licenses, etc., as required by applicable Federal, Provincial and Municipal regulatory bodies and agencies, and, as well, obtain a signed, written lease agreement for the real property if being leased.
- 4.11 The Company will ensure that good standing be maintained with the Consumer, Corporate and Insurance Division of the Office of the Attorney General during the lifetime of the Conditional Contribution.
- 4.12 The Company shall indemnify and save the Corporation harmless from all claims, demands, actions and causes of action of third parties that may arise out of this Project.
- 4.13 The Company shall not, during the 24 month period following the completion of the Project, sell or otherwise dispose of or cease to use asset(s) of which a contribution towards the cost has been made, without the prior written consent of the Corporation.
- 4.14 The Company shall further assist in economic development in PEI by purchasing all capital and operating materials, supplies and services from local PEI firms providing such firms are able to provide same at competitive costs and provide equal quality and service.
- 4.15 In the event the Company ceased operation on PEI, voluntarily or otherwise, any amounts due to the Company under this Offer shall be void and all previous advances to date shall be refundable by the Company to the Corporation, unless such advances have been disbursed by the Company in good faith and in keeping with the terms of this Offer.
- 4.16 The Company agrees that no member of the House of Commons of Canada, Senate or the Legislative Assembly of Prince Edward Island shall be admitted to any part or share of this Offer or to any benefits to arise therefrom.
- 4.17 This Offer has been authorized based on a business plan and other information submitted by the Company. Should the implementation of this plan be altered or changed significantly so as to materially diminish the economic benefits to PEI, then the Corporation may, at its option, re-evaluate or withdraw this Offer.

5.0 OTHER GOVERNMENT ASSISTANCE

- 5.1 The Company will inform the Corporation promptly in writing of any further Federal, Provincial, Municipal or other outside assistance to be received for the Project, and the

PEI M'kmaq Development Corporation Inc
December 20, 2010
4 | Page

Corporation shall have the right to adjust the amount of the Contribution to take into account the amount of any such further assistance that is to be received.

6.0 NON-COMPLIANCE

6.1 In the event the Company fails to comply with the terms and conditions of this Offer or ceases operations or conducts thereon activities not eligible under the Corporation's programs as it relates to this project, this Offer shall be terminated and any incentives paid during the period of non-compliance shall be refunded to the Corporation.

7.0 NOTICE

7.1 Any notice or correspondence to Prince Edward Island Business Development Inc., including all inquiries with respect to this Offer, should include the file # and be directed to:

Attn: Bruce Johnston, Senior Financial Analyst - Lending Services
Innovation PEI
PO Box 910 Charlottetown, PE C1A 7L9
T: (902) 894-0379, F: (902) 368-6255, E: bjohnston@gov.pe.ca

8.0 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

8.1 Information contained in and collected in relation to this Letter of Offer is subject to, and will be treated in accordance with, the Prince Edward Island Freedom of Information and Protection of Privacy Act. For additional information see: www.gov.pe.ca/foiapp.

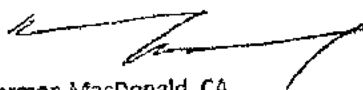
9.0 ENTIRE CONTRACT

9.1 This Offer, the Application, Guidelines and the Schedules, constitute the entire agreement between the parties with respect to its subject matter.

9.2 The Company will note that at the bottom of the enclosed copy of this Letter of Offer, there is an acknowledgement and approval to be signed by the principals of the Company. If it is the Company's intention to accept this Offer under the terms outlined, please have this signed, witnessed, and returned to innovation PEI by January 14, 2011.

We are looking forward to the successful completion of this Project.

Yours truly,




Norman MacDonald, CA
Director, Lending Services

PEI Mi'kmaq Development Corporation Inc
December 20, 2010
5 | Page

The undersigned, PEI Mi'kmaq Development Corporation Inc., does hereby accept this offer and agrees to all of the terms contained herein.

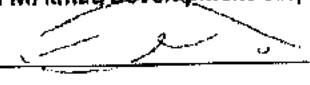
Dated the 21st day of December, 2010.

Signed sealed and delivered in the presence of:



Witness

PEI Mi'kmaq Development Corporation Inc.

Per: 

Per: _____

Innovation PEI

2010/2011
201012-35

CLIENT INFORMATION

| | | | |
|-----------------|---|----------------|---------------------|
| Client Name | PEI Mi'kmaq Development Corporation Inc. | Sector | General |
| Contact Person | Don Mackenzie | Telephone | () 15.(1) |
| Address | P.O. Box 134 Lunenburg Island PE, C0B 1P0 | Fax | |
| WebSite Address | www.mcpel.ca | E-Mail Address | dmackenzie@mcpel.ca |

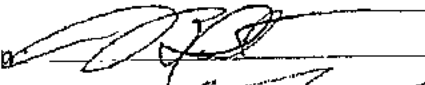
PROJECT DESCRIPTION

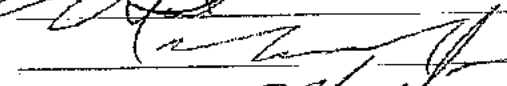
| | | | |
|-----------------|--|---------------------------|-------------------------------|
| Project Title | Regulatory & Compliance Framework Study - Implementation Phase | | |
| Project Officer | Bruce Johnston | Division | Corporate Services |
| Jobs Planned | 0 | Jobs Maintained | 0 |
| Start Date | 01 Sep 2010 | Completion Date | 31 Jan 2011 |
| | | Exporting | <input type="checkbox"/> |
| | | Electoral District | (23) Tyne Valley - Linkletter |
| | | Application Received Date | 01 Nov 2010 |

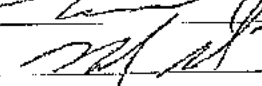
COMMUNICATIONS:

| | | | | | |
|-----------------------------------|----|-------------|-----|--------------|-----|
| External Communications Required: | No | Time Frame: | N/A | Sensitivity: | Yes |
|-----------------------------------|----|-------------|-----|--------------|-----|

AUTHORIZATION:

Officer Recommendation:  Date: Dec 20/2010

Director Authorization:  Date: Dec 20/10

Chief Executive Officer Authorization:  Date: Dec 20/10

Deputy Minister: _____ Date: _____

Minister: _____ Date: _____

REQUESTED INNOVATION PEI PARTICIPATION

| Program | Client Contribution | Other Govt. | Innovation PEI Contribution | Total |
|-------------------------|---------------------|-------------|-----------------------------|------------|
| Development Fund - 7500 | | | | |
| Implementation Phase | 25,000.00 | 0.00 | 100,000.00 | 125,000.00 |
| | 25,000.00 | 0.00 | 100,000.00 | 125,000.00 |

SUMMARY:

Under PA #200910-50 dated October 29, 2009, Innovation PEI committed \$245k in conditionally non-repayable contributions to the PEI Mi'kmaq Development Corporation Inc. ("PEI MDC"), to finance a "Regulatory and Compliance Framework" study being undertaken on their behalf by the Catania Consulting Group Inc.

That project has advanced to the implementation stage and PEI MDC has engaged McInnes Cooper to assist with the legal and logistical details. PEI MDC reports that to late November 2010 it had incurred legal fees in excess of \$125k and requires assistance to pay the remaining balance of \$100k.

Accordingly, this application seeks authorization for a conditionally non-repayable grant of up to \$100k for the payment of up to 80% of the \$125k in legal fees incurred to the end of November 2010.

From: Neil Stewart
To: Bruce Johnston
CC: Norman MacDonald
Date: 12/17/2010 4:23 PM
Subject: Re: Fwd: RE: Funding Extension

Yes

-----Original Message-----

From: Bruce Johnston
To: Neil Stewart <NMSTEWART@gov.pe.ca>
CC: Norman MacDonald <NMACDONALD@gov.pe.ca>
Creation Date: 12/17 4:02 pm
Subject: Fwd: RE: Funding Extension

In what amount? \$100k?

>>> Neil Stewart 12/17/2010 4:01 PM >>>
bruce,
do up the p.a. and advise don we will get a cheque drawn up.
thanks

Neil Stewart CA
Chief Executive Officer
Innovation PEI
P.O. Box 910
Charlottetown, PEI C1A 7L9
Phone (902) 368-5004 Fax (902) 368-6660

>>> Bruce Johnston 12/17/2010 2:18 PM >>>
Neil,

See Don's reply below. I note that Don did not address my questions with respect to deliverable and total costs.

I don't know who is in control of this engagement.

Bruce

>>> "Don MacKenzie" <dmackenzie@mcopei.ca> 12/17/2010 2:09 PM >>>

Bruce,

We have already exceeded the 100k. I believe that, as of the last statement, we were at \$163k. Clearly there will have to be a conversation with the Minister, but I would like to get at least a partial payment to McInnes Cooper ASAP.

From: Bruce Johnston [mailto:bjohnston@gov.pe.ca]
Sent: Friday, December 17, 2010 1:50 PM
To: Don MacKenzie
Subject: RE: Funding Extension

Don,

In the interests have having the most current information available when I speak with Neil, it would be helpful to know the current status of this engagement with McInnes Cooper right now.

When we met on November 1st, it is my recollection that an estimated \$75k of the \$100k being requested had already been incurred/invoiced and that the remaining \$25k would likely be required in short order as well. How much is due to McInnes Cooper at this point?

At the time you also did not have a clear sense of what the final cost of this engagement would be or precisely what the deliverable was or the time line to completion. Do you have any more visibility on these issues?

Thanks...Bruce

>>> "Don MacKenzie" <dmackenzie@mcpei.ca> 12/17/2010 12:08 PM >>>

Hi Bruce,

Any update on this? McInnes Cooper is getting anxious.

DKM

From: Bruce Johnston [mailto:bjohnston@gov.pe.ca]
Sent: Tuesday, November 23, 2010 2:00 PM
To: Don MacKenzie
Subject: Re: Funding Extension

Thanks Don,

This will enable us to move forward with your request. I'll let you know if there is anything else we require.

Regards,

Bruce Johnston,
Senior Financial Analyst, Lending Services
Innovation PEI
94 Euston Street, 2nd Floor
PO Box 910
Charlottetown, PE Canada C1A 7L9
T: 902 894 0379 F: 902 368 6256

>>> "Don MacKenzie" <dmackenzie@mcpei.ca> 11/19/2010 10:55 AM >>>

Hi Bruce,

Further to our recent meeting, I am writing in relation to an extension of the grant funding provided to the PEI Mi'kmaq Development Corporation (PEIMDC). As you are aware, approximately a year ago Innovation PEI extended grant funding to the PEIMDC in an amount up to \$245,000 with respect to an internet entertainment/regulatory and compliance framework study (the Project). After studying the matter thoroughly, we have continued our partnership with the PEI Provincial Government and have pursued the implementation of the Project, as it holds tremendous promise for economic development. The implementation phase has required a great deal of specialized work and has necessitated the involvement of a local law firm to assist with the legal and logistical details.

As such, we are incurring significant, yet necessary, legal fees as we continue to pursue this Project in partnership with the Government. We are very excited about the direction this matter is taking, and there is continued optimism for the mutual benefits that can be realized for both the Provincial and First Nation Governments.

Our current request is for additional grant funding in the amount of \$100,000 to satisfy outstanding legal fees.

Please let me know if you have any questions or if any additional information is needed.

Thank you, DKM

Donald K. MacKenzie
A/Executive Director,
Legal / Band Government Advisor and
Director of Intergovernmental Affairs
Mi'kmaq Confederacy of PEI
70 Kent Street, Suite 100
Charlottetown, PEI
C1A 1M9
Tel: (902) 626-2882
Direct: (902) 626-3345
Fax: (902) 367-3779
E-mail: dmackenzie@mcpei.ca
Website: www.mcpei.ca

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Statement of Confidentiality

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Bruce Johnston - RE: PEI Mi'kmaq Development Corporation Inc - Letter of Offer

From: Bruce Johnston
To: Don MacKenzie
Date: 12/21/2010 12:14 PM
Subject: RE: PEI Mi'kmaq Development Corporation Inc - Letter of Offer

that will be fine....I am out of the office until 1:30pm but will be around the remainder of the day.

>>> "Don MacKenzie" <dmackenzie@mcpei.ca> 12/21/2010 11:42 AM >>>

I will drop by this afternoon Bruce.

From: Bruce Johnston [mailto:bjohnston@gov.pe.ca]
Sent: Monday, December 20, 2010 2:37 PM
To: Don MacKenzie
Cc: Tanya Kelly
Subject: PEI Mi'kmaq Development Corporation Inc - Letter of Offer

Good afternoon Don,

Further to this morning's discussion, attached is a copy of the Letter of Offer for IPEI's conditionally non-repayable contribution of \$100k for your review.

Please advise when you have a couple of minutes to stop in and sign the originals, preferably later today or tomorrow.

I have requisitioned a \$100k cheque, payable to the PEI MDC, and it should be available on Thursday afternoon/Friday morning. I will out of the office those days but Tanya will email you when it is available for pick-up at our 1st floor reception desk.

Regards,

Bruce Johnston,
Senior Financial Analyst, Lending Services
Innovation PEI

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94 Euston Street, 2nd Floor
PO Box 910
Charlottetown, PE Canada C1A 7L9
T: 902 894 0379 F: 902 368 6255

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Bruce Johnston - Re: FW: Message from "HGSC901"

From: Bruce Johnston
To: Don MacKenzie
Date: 12/20/2010 10:19 AM
Subject: Re: FW: Message from "HGSC901"

I should be able to work with these...thanks.

Bruce

>>> "Don MacKenzie" <dmackenzie@mcpei.ca> 12/20/2010 10:15 AM >>>
Hi Bruce,

Hopefully this attachment will give you what you require in terms of invoices. As you can see, they take the file up to the end of October of 2010 and the total owing as of that date is \$163,388.07.

Please let me know if you require any more information.

Thanks, DKM

Page 52 of 70

withheld pursuant to section
sont retenues en vertu de l'article

25.(2)

of the Freedom of Information and Protection of Privacy Act

Bruce Johnston - Fwd: RE: Funding Extension

From: Bruce Johnston
To: Neil Stewart
Date: 12/17/2010 1:34 PM
Subject: Fwd: RE: Funding Extension
CC: Norman MacDonald

I will do....when I first spoke with Don on Nov 1, \$75k of the \$100k that he was asking for had already been incurred and invoiced.

I expect that the balance will be needed by this point as it was my understanding that Kevin Kiley was working the file on an on-going basis.

I'll get updated numbers and advise.

Bruce

>>> Neil Stewart 12/17/2010 1:29 PM >>>

bruce,

can you check with Don to see, is all the \$100K due now or could we make a payment of less to mcinnnes cooper at this point?

Neil Stewart CA
Chief Executive Officer
Innovation PEI
P.O. Box 910
Charlottetown, PEI C1A 7L9
Phone (902) 368-5004 Fax (902) 368-6660

>>> Bruce Johnston 12/17/2010 1:17 PM >>>

Neil,

Please see Don's follow-up note below.

Have you had a chance to discuss with Minister Sheridan?

Thanks...Bruce

>>> Bruce Johnston 12/17/2010 1:14 PM >>>

Hello Don,

I'll check back in with Neil.

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When Neil and I last discussed he was waiting to get a chance to discuss with Minister Sheridan. Not sure if they have connected yet.

Thanks...Bruce

>>> "Don MacKenzie" <dmackenzie@mcpei.ca> 12/17/2010 12:08 PM >>>
Hi Bruce,

Any update on this? McInnes Cooper is getting anxious.

DKM

From: Bruce Johnston [mailto:bjohnston@gov.pe.ca]
Sent: Tuesday, November 23, 2010 2:00 PM
To: Don MacKenzie
Subject: Re: Funding Extension

Thanks Don,

This will enable us to move forward with your request. I'll let you know if there is anything else we require.

Regards,

Bruce Johnston,
Senior Financial Analyst, Lending Services
Innovation PEI
94 Euston Street, 2nd Floor
PO Box 910
Charlottetown, PE Canada C1A 7L9
T: 902 894 0379 F: 902 368 6255

>>> "Don MacKenzie" <dmackenzie@mcpei.ca> 11/19/2010 10:55 AM >>>
Hi Bruce,

Further to our recent meeting, I am writing in relation to an extension of the grant funding provided to the PEI Mi'kmaq Development Corporation (PEIMDC). As you are aware, approximately a year ago Innovation PEI extended grant funding to the PEIMDC in an amount up to \$245,000 with respect to an internet entertainment/regulatory and compliance framework study (the Project). After studying the matter thoroughly, we have continued our partnership with the PEI Provincial Government and have pursued the implementation of the Project, as it holds tremendous promise for economic development. The implementation phase has required a great deal of specialized work and has necessitated the involvement of a local law firm to assist with the legal and logistical details.

As such, we are incurring significant, yet necessary, legal fees as we continue to pursue this Project in

partnership with the Government. We are very excited about the direction this matter is taking, and there is continued optimism for the mutual benefits that can be realized for both the Provincial and First Nation Governments.

Our current request is for additional grant funding in the amount of \$100,000 to satisfy outstanding legal fees.

Please let me know if you have any questions or if any additional information is needed.

Thank you, DKM

Donald K. MacKenzie
A/Executive Director,
Legal / Band Government Advisor and
Director of Intergovernmental Affairs
Mikmaq Confederacy of PEI
70 Kent Street, Suite 100
Charlottetown, PEI
CIA 1M9
Tel: (902) 626-2882
Direct: (902) 626-3345
Fax: (902) 367-3779
E-mail: dmackenzie@mcpei.ca
Website: www.mcpei.ca

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Bruce Johnston - Fwd: Re: Funding Extension

From: Bruce Johnston
To: Neil Stewart
Date: 12/3/2010 4:12 PM
Subject: Fwd: Re: Funding Extension
CC: Norman MacDonald

On the "Regulatory & Compliance Framework Study" we have:

\$245,000 committed by way of a grant.
191,532 disbursed on budgeted activities to date
53,468 undisbursed at present
46,666 still committed to an activity yet to be claimed
6,802 that might be available for reversal in due course (represents FX savings on previous USD disbursements)

This new ask is for "Phase 2" which at this time appears might end up being an open ended commitment.

Bruce

>>> Neil Stewart 12/3/2010 3:55 PM >>>
what do we have in already and have they tapped all of the \$ we offered to date

Neil Stewart CA
Chief Executive Officer
Innovation PEI
P.O. Box 910
Charlottetown, PEI C1A 7L9
Phone (902) 368-5004 Fax (902) 368-6660

>>> Bruce Johnston 11/19/2010 12:00 PM >>>
Neil,

Further to our recent discussion, attached is the request from Don MacKenzie, on behalf of the PEI Millmaq Development Corporation, requesting an additional \$100k in grant funding to meet ongoing legal fees associated with advancing the internet entertainment initiative.

It is my understanding that PEIMDC have already spent \$25k of their own funds in legals and that this \$100k request is to pay additional legals incurred to date (he has invoices in hand).

MacKenzie has advised that the legal work is being done on an open ended engagement and that

he has no visibility on what further legal costs might be incurred. MacKenzie was not aware of a defined deliverable with a budget to reach that goal....they are just moving the initiative forward.

In any event, Don indicated that Minister Sheridan directed him to approach IPEI for these funds.

Please provide direction on this matter.

Thanks...Bruce

(2/22/2019) Bruce Johnston - Re: Micmac Confederacy

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From: Neil Stewart
To: MacDonald, Norman
CC: Johnston, Bruce
Date: 10/25/2010 8:51 AM
Subject: Re: Micmac Confederacy

sure. I'm gonna give Don Poole a call at the confederacy and let him know we will speak later in the week

Neil Stewart CA
Chief Executive Officer
Innovation PEI
P.O. Box 910
Charlottetown, PEI C1A 7L9
Phone (902) 368-5004 Fax (902) 368-6660

Print
Forward
Reply

Bruce Johnston - Micmac Confederacy

From: Norman MacDonald
To: Stewart, Neil
Date: 10/25/2010 8:44 AM
Subject: Micmac Confederacy
CC: Johnston, Bruce

Neil...Got your voice message on the Micmac will touch base on Tuesday....Bruce is actually out of the office today [REDACTED] 15.(1) and is back Tuesday...might as well wait for him the return before we discuss...Thanks NM

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Economic Growth,
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Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

July 15, 2019

2019-032 EDT

BY E-MAIL pmaines@cloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

This is further to the review by the Information and Privacy Commissioner of your request for access to records from the Department of Economic Development and Tourism (now the Department of Economic Growth, Tourism and Culture), as follows:

"All records, in any formats, electronic or otherwise, of Brad Mix [Senior Director Innovation PEI] which were either sent to - or received from - Neil Stewart, May 1, 2011-June 15, 2011."

I am writing to inform you that we have reconsidered our decision as it relates to page 6 of 8 of the responsive records and are providing access to the record in full. A copy of the record is attached.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,

Erin McGrath-Gaudet
Deputy Minister

Attachment

c: Information and Privacy Commissioner; APSO

12

Neil Stewart - Re: Financial Services Meetings - Toronto

From: Neil Stewart
To: Mayne, Michael; Mix, Brad
Date: 6/3/2011 8:57 AM
Subject: Re: Financial Services Meetings - Toronto

was there a memo on the tax holiday at some point? I don't believe so.

Wes Sheridan is heading this way with the gaming. The way I was understanding where Wes's head was at, and I may be wrong but based on my last discussion with him...they are viewing gaming and financial services as one thing. Minister Sheridan had checked with me when he heard we were in discussion with Virgin Gaming. Basically the conversation I had with him was that, they planned on offering the on line gambling guys only a tax holiday, no grant assistance. he wanted pei to be consistent with our offerings. the thought was if we prospected a company that was small and needed grants more than tax holidays, we would go the grant route. If it was a large co we would go the tax route.

I suggest, rather than speak to Rory, cause I'm pretty sure he will defer to policy board, we meet with Sheridan and Campbell, and lay out that we would like to do on the tax holiday for financial services (which would include online gaming). We have aerospace, bio, and the eastern and western industrial park tax holidays already. I think we will have no problem getting this through TB and cabinet.

All this to say, in order to make Mix's meetings most effective, I suggest we get some indication from the ministers if this is a sellable proposal. then mix can advise in his meetings on the direction we are going and follow up with these clients once we have the holiday in place.

there really is no cost to gov't as we are introducing a new industry and bringing in corporate tax we would not otherwise have. most of the gain pei gets from new business is from payroll tax. corporate tax is only \$16 to \$30M annually in pei

Neil Stewart CA
 Chief Executive Officer
 Innovation PEI
 P.O. Box 910
 Charlottetown, PEI C1A 7L9
 Phone (902) 368-5004 Fax (902) 368-6660

>>> Brad Mix 6/3/2011 8:30 AM >>>

Ok, the next policy board meeting is on June 23, 2 days after I meet with TD, State Street, and CIBC Mellon. Can I discuss this with Rory before going to Toronto, present a 10 year tax rebate for the provincial portion of corporate income tax to the companys, and this program is put on the agenda for policy board for the June 23 meeting?

Let me know if this is ok

Brad

>>> Michael Mayne 6/2/2011 5:08 PM >>>
 Guys

Let's discuss a more comprehensive tax holiday for financial services to take to PB - it is a good idea to also include captives .. And warm up PB to the idea

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JOHN W. McDONALD, B.A., M.A., LL.B.

DALE M. ROSS, B.A., B.Ed., LL.B.

Barristers & Solicitors

9 Brant Road, South

Cambridge, Ontario, N1S 2W4

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Facsimile 519-740-6368

By Email Only

July 23, 2019

Stewart McKelvey: Attention Jonathan M. Coady

65 Grafton Street, P.O. Box 2140

Charlottetown, PE C1A 8B9

Telephone: 902-892-2485

Facsimile: 902-566-5283

Email: jcoady@stewartmckelvey.com

Lawyers for the Defendants, Government of Prince Edward Island et al

Gardiner Roberts LLP: Attention Gavin Tighe

Bay Adelaide Centre - East Tower

22 Adelaide West, Suite 3600

Toronto, ON M5H 4E3

Telephone: 416-865-6600

Facsimile: 416-865-6636

Email: gtighe@grllp.com

Lawyers for William Dow and Tracey Cutcliffe

-2-

BYLD Barristers: Attention Leigh Youd
141 Adelaide Street West, Suite 400
Toronto, ON M5H 3L5
Telephone: 416-364-4900
Facsimile: 416-364-3865
Email: lyoud@byldlaw.com
Lawyer for the Defendant, Gary Scales

Wright Temelini: Attention Greg Temelini
Suite 303, 411 Richmond Street East,
Toronto, ON M5A 3S5
Telephone: 416-479-4477
Facsimile: 416-368-7474
Email: greg@wrighttemelini.com
Lawyers for the Defendant, Steven Dowling

Dear Counsel:

**Capital Markets Technologies, Inc. and 7645686 Canada Inc. v.
Government of Prince Edward Island et al.
Court File No. S1-GS-27636**

1. I respond to Counsel Coady letter dated July 19, 2019. Attached a copy of the July 10, 2019 letter from Ms McGrath-Gaudet, Deputy Minister of Economic Growth, Tourism and Culture to Ms Karen Rose, the Information and Privacy Commissioner.
2. Again, as mentioned in my letter dated July 15, 2019, my thought is that this breach of various disclosure rules should be brought to the attention of Justice Campbell by Counsel Coady. Counsel Coady should also remove himself as Counsel of Record on this file.

Yours truly,

"JWM"

John W. McDonald

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Economic Growth,
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Office of the Deputy Minister
PO Box 2000, Charlottetown
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Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

July 10, 2019

Karen A. Rose
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
P. O. Box 2000
Charlottetown, PE C1A 7N8

Dear Commissioner Rose:

Re: Review under the *Freedom of Information and Protection of Privacy Act (the "Act")*
Public Body: Economic Growth, Tourism and Culture (formerly: Economic Development and Tourism)
Ref. No.: 2018-287
Your File No.: FI-19-271

The following is the Public Body's written response to the questions posed in your letter dated June 4, 2019.

Please be advised that the Public Body is still finalizing its response to the second question. A supplementary letter will follow as soon as possible.

With the exception of the answer to the sixth question, the answers provided in this response were prepared with the assistance of and/or in consultation with the Acting Director, Business Infrastructure Services, IT Shared Services (ITSS).

It should be confirmed that this matter was also discussed with Brad Mix who participated in the initial search to respond to this access request. As noted in previous correspondence, the search was primarily conducted by Mr. Mix's assistant. The Public Body has learned, as will be explained below, that Mr. Mix's assistant searched one archive as Mr. Mix does not have access to the other archive.

Following the request for review, the former Deputy Minister arranged for Mr. Mix's two archives to be made available to the Deputy Minister's administrative assistant who conducted a second search. The second search by the Deputy Minister's administrative assistant was made possible with the assistance of 2 technicians from ITSS. We wish to clarify that these particular technicians did not search. They only made the two archives accessible to the administrative assistant.

Brad Mix's Archives and the Responsive Records

In your letter, you indicated you wish to receive a response to the following questions:

1. How were the archives created? By whom? When?
2. At the times the archives were created, what policies/procedures were in place relating to retention of email records?
3. If the missing emails were deleted, would this have occurred before or after the creation of the archive?
4. Why are there two archives?
5. In the first archive, please provide possible reasons for finding no emails in the inbox for the time periods June 13, 2010, to March 19, 2012, and in the sent box for the time periods June 12, 2010 to April 11, 2012.
6. Did you interview Brad Mix relating to these missing records? If so, did he provide an explanation for the missing emails? E.g. Did these time periods correspond with a change of position for Mr. Mix, or a period of absence from work?
7. Is it common to find time periods of missing emails in searching archives?

Responses to Questions

With the exception of the second question, the responses to the above listed questions are found below.

- **How were the archives created? By whom? When?**

This question has been discussed with the Acting Director, Business Infrastructure Services, ITSS.

Prior to answering the question, the Acting Director, Business Infrastructure Services provided background concerning the creation of Government's centralized IT support system and archiving for individual government employees. A brief overview of this is set out below.

The current centralized IT support system known as ITSS was formed in 2007. Prior to that time, IT support services were not centralized in government.

Commencing in 2014, a project was undertaken to standardize archiving such that archiving of GroupWise records (including emails) for government employees would be standardized for all departments.

Prior to completion of this project in 2015, government employees could have multiple archives within the network and on the hard drives of their laptops and/or office computers.

Since 2015, government employee archives have become standardized. This means that government employees are not able to copy, create or direct their archives to any particular location. Since 2015, all archived GroupWise activity is directed to one centralized location where archives of government employees are electronically stored.

The Acting Director, Business Infrastructure Services reports that when the archiving project was carried out, only one archive was identified and located for Mr. Mix. This archive was brought into the centralized location that resulted from standardization.

The Acting Director, Business Infrastructure Services also advised the Public Body that:

- On March 17, 2015, Brad Mix reported a problem by way of incident report to ITSS because he discovered time periods of missing emails from his archive.
- ITSS's electronic incident report confirms the above occurrence.
- On the same day, ITSS sent help to Mr. Mix.
- In order to determine if there might be a technical issue with Mr. Mix's archive, a copy of the archive was made with the assistance of an end user support technician resulting in there being two archives for Mr. Mix.
- All of Mr. Mix's archived GroupWise records from that point forward were directed to the copy of the original archive or the other archive.

As such, the original archive was created prior to the standardization of archiving in 2014-2015. The Acting Director, Business Infrastructure Services reports that ITSS is unable to confirm who created this archive or when exactly it was created. The Public Body does not know who or when it was created.

And, as previously discussed, the other archive was created on March 27, 2015 with the assistance of an end user technician. Mr. Mix has had use of this other archive since the incident report to ITSS in 2015.

- **If the missing emails were deleted, would this have occurred before or after the creation of the archive?**

This question has been discussed with the Acting Director, Business Infrastructure Services. He advises that each day Government makes a back-up copy of all Government records on the network, including email accounts and archives. As a result of storage requirements and budgetary constraints, this copy is retained for a period of 365 days. In turn, ITSS is able to review, analyze and/or consider an employee's network activity, such as inconsistencies, deletions and changes going back 365 days.

The two archives in issue were created in or prior to 2015. ITSS is unable to assist the Public Body to answer to this question.

- **Why are there two archives?**

Please see the response to the first question for the history behind the two archives.

- **In the first archive, please provide possible reasons for finding no emails in the inbox for the time periods June 13, 2010, to March 19, 2012, and in the sent box for the time periods June 12, 2010 to April 11, 2012.**

Generally speaking, the Public Body understands that email loss can occur as a result of a variety of things, including following a software upgrade or device change (such as upgrading of a mobile phone); corruption in files; and, deletion. There are also instances when it is not possible to determine the reason for losses.

The Public Body sought assistance from the Acting Director, Business Infrastructure Services, in relation to the time period of missing emails for Brad Mix and this question. As previously noted, each day Government makes a back-up copy of all Government records on the network.

This copy is retained for 365 days. As a result, the Public Body understands from the Acting Director, Business Infrastructure Services that:

- there are limits imposed on ITSS that result in its inability to provide reasons for all questions related to emails accounts and archives; and,
 - given this limitation one cannot speculate about the reasons for the findings referenced in your question.
- **Did you interview Brad Mix relating to these missing records if so, did he provide an explanation for the missing emails? E.g. Did these time periods correspond with a change of position for Mr. Mix, or period of absence from work?**

This matter was with discussed with Mr. Mix at length. He is not able to nor is he technically qualified to provide a technical explanation for the apparent loss of emails. The time periods in question do not correspond with a change of position, or a period of absence from work.

Mr. Mix reports that in 2015 he was looking through his archive for emails. It was at this time that he discovered that emails in his archive for periods of time appeared to be missing. Mr. Mix states that he did not understand what had happened as he could not locate emails for many files and contacts throughout 2011 and 2012. Although Mr. Mix advises that he does delete some transitory emails that he won't use again (as is permitted), he unequivocally states that he has not and does not intentionally delete other emails. He states that he was distressed by the discovery of missing emails.

He reports that following his discovery he immediately reached out to ITSS to report the problem.

Mr. Mix also reports that in early 2015 he had a mobile phone upgrade, a few months prior to his discovery, and he believes that this upgrade is related to the apparent loss of emails.

Mr. Mix noted that despite the existence of this issue he has participated in and arranged for searches for each and every access request related to his records, when asked to do so. In fact, he has had ITSS assistance with searches earlier this year to help him ensure that searches were carried out appropriately within the limitations of the GroupWise program.

- **Is it common to find time periods of missing emails in searching archives?**

This question has been discussed with the Acting Director, Business Infrastructure Services. He advises that while not an issue arising every day, it does happen. He confirmed that it is possible for an individual government employee to have a time period or time periods of missing emails.

Closing Remarks

Thank you for providing the public body with this opportunity to respond to the questions set out in your June 4, 2019 letter. We anticipate that it will provide you with the clarity you require to complete your review.

Should that not be the case or should you wish to discuss this matter for further, please contact the undersigned or the Access and Privacy Services Office.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

c: APSO

15



Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
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Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

July 23, 2019

2019-087 EGTC

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Growth, Tourism and Culture, as follows:

"All records, in any formats, electronic or otherwise, of Brad Mix which were either sent to - or received that make mention of a company called "RBC Investor Services from May 1, 2012 to October 1, 2012."

I am writing to inform you that we are providing access to the records. A copy of the records is attached.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

From: "Barrow, Karl (RBC Dexia IS)" <karl.barrow@rbcdexia.com>
To: BDMIX@gov.pe.ca
Date: 5/8/2012 2:34 PM
Subject: RE: Follow up to PEI presentation to RBC Dexia

Brad,

I had a great vacation thanks. Nothing further required at this juncture.

Regards
Karl

Karl Barrow
Director, Operating Model
Client Operations
RBC Dexia Investor Services Trust UK Branch
T +44 (0) 20 7029 0833
M +44 (0) 7713 388461

-----Original Message-----

From: Brad Mix [mailto:bdmix@gov.pe.ca]
Sent: 08 May 2012 15:29
To: Barrow, Karl (RBC Dexia IS)
Subject: RE: Follow up to PEI presentation to RBC Dexia

Hi Karl,
I hope you had a good vacation. If there is any further information that you require, please let me know.

Thanks,

Brad

>>> "Barrow, Karl (RBC Dexia IS)" <karl.barrow@rbcdexia.com> 3/23/2012
>>> 4:39 AM >>>
Brad,

That's fine thanks. I will be away on vacation from 30 March until April 16 so you will have a period of peace.

Regards
Karl

Karl Barrow
Director, Operating Model
Client Operations

RBC Dexia Investor Services Trust UK Branch T +44 (0) 20 7029 0833 M +44
(0) 7713 388461

rbcdexia.com | Follow us: Twitter LinkedIn RSS

-----Original Message-----

From: Brad Mix [mailto:bdmix@gov.pe.ca]
Sent: 26 March 2012 17:33
To: Barrow, Karl (RBC Dexia IS)
Subject: RE: Follow up to PEI presentation to RBC Dexia

Hi Karl,

I apologize for not being more clear on the rebate. The 7.5% applies to the incremental positions after year 1.

I have revised the presentation to better reflect the increased numbers that were presented on March 2.

Any questions, please let me know.

Thanks,
Brad

>>> "Barrow, Karl (RBC Dexia IS)" <karl.barrow@rbcdexia.com> 3/26/2012
>>> 8:09 AM >>>
Brad,

Thank you for the prompt reply.

With regard to the Labour Rebate.

- Does the 7.5% rebate for year 2 onwards apply to the total labour expenditure incurred in each year or is it applied only to the incremental labour expenditure after year 1? Within the presentation (Financial Incentives) the labour rebate for years 2-10 is shown as \$7,500,000. Presumably this is calculated as 200 employees *\$50000*7.50%*10 years. This suggests the first 100 positions qualify for the higher rebate (37.5%) in year 1 only and no rebate thereafter. Can you confirm the basis for the calculations?

Thank you in anticipation.

Regards
Karl

Karl Barrow
Director, Operating Model
Client Operations

RBC Dexia Investor Services Trust UK Branch T +44 (0) 20 7029 0833 M +44 (0) 7713 388461

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-----Original Message-----

From: Brad Mix [mailto:bdmix@gov.pe.ca]

they are hired in the first year of operation? Hence if we hired say 20 employees in April 2014, 30 employees in October 2014 and 50 employees in January 2015 can you show how the Labour Rebate would be calculated

A- The labour rebate is calculated at the anniversary of your first year of operation. For example, if you begin operations April 1 2014, on April 1, 2015 RBC Dexia can submit to Innovation PEI a claim for 37.5% of labour expenditures incurred during that year. During the second year of operation, our labour rebate declines to 7.5% ,so on April 1, 2016, RBC Dexia can submit to Innovation PEI a claim for 7.5% of labour expenditures for that year.

- Is the Labour Rebate of 37.5% capped at 100 employees in the first year? What if 200 employees were hired in the first year?

A - Innovation PEI is prepared to offer the 37.5% labour rebate on 200 positions during the first year of operation. If you can submit your draft growth plan with salary ranges, I can provide a draft a potential payout schedule.

Summary of Benefits:

- Can you confirm the Office Savings are \$75,000 per year (there is no currency referenced on the slide)

A - Sorry, Karl, I did miscalculate this figure. The savings on annual rate for office space should be at least \$180,000 on an annual basis. This is based on 300 people at 100 square feet at a cost difference of \$6.00 per sq ft.

- What Office Cost do you assume for Toronto?

A- I used \$26 per sq ft in Toronto. This is a very conservative number as the rates that have been identified to us are at least \$30 per square foot for Class A space.

- What is the forecast cost of the total office space? Is it 45,000 sq.ft * \$22 = \$990,000?

A - The number used in the presentation was for a very comfortable 300 positions in 45,000 sq ft. For a new building, I used a conservative rate of \$22 per square foot. So, the forecasted cost for 600 positions at 100 sq ft at \$22 per square foot would equate to \$1,320,000

Additionally can you confirm that no adjustments for inflation or changes to the baseline data through years 2-10 have been built into the forecasts?

A- No adjustments for inflation have been considered. However, Prince Edward Island has one of lowest inflation rates in North America.

Thank you for the additional materials you sent today.

Sent: 21 March 2012 18:24
To: Barrow, Karl (RBC Dexia IS)
Subject: RE: Follow up to PEI presentation to RBC Dexia

Hi Karl,
Thanks for the email and I appreciate the questions. The presentation that you received was based on projected numbers from previous meetings that I had with RBC Dexia in Toronto. This was based on a 300 person operation with 100 employees beginning in the first year. When I met with Joanna in London on March 2, we discussed the possibility of 600 positions after 3 years. Since my return to Prince Edward Island, I have met with my Minister and CEO of Innovation PEI and I do have approval to offer a program at an equivalent rate with the expanded numbers.

Please see my answers below to your questions. Any questions, please give me a call or email.

Thanks,
Brad

>>> "Barrow, Karl (RBC Dexia IS)" <karl.barrow@rbcdexia.com> 3/21/2012
>>> 1:05 PM >>>
Brad,

I've detailed some questions below to which I would appreciate your comment.

Financial Incentives:

- Can you clarify how the Rental Incentive for the first year (\$200,000) is calculated?

A - This was based on 100 people taking 100 sqft each at a lease rate of \$20.00/sq ft. If RBC Dexia decides to place 200 positions in the first year in Prince Edward Island, Innovation PEI is prepared to provide a rental incentive of \$400,000 for the first year of operation. (200 positions X 100 sq ft X \$20.00/sq ft)

- How is the Labour Rebate calculated? Is it based on Gross Salary/Payroll? Is there a cap on the Gross Salary for Labour Rebate calculation purposes? Is it calculated each month based on the number of employees on the payroll?

A - The labour rebate is calculated on gross payroll on an annual basis. Before you begin in Prince Edward Island, Innovation PEI will ask for your projected size and scale of operation. For Innovation PEI planning purposes, there is a maximum contribution in our letters of offer but if your hiring and payroll expenditures are tracking ahead of the initial projections, we will revise our letters to meet your new projections. For your reference, I can send you the template of our labour rebate letter of offer to clarify the program.

- Is the Labour Rebate of 37.5% applied during the first calendar year, the first twelve months or is it applied for a year to each employee if

Regards
Karl

Karl Barrow
Director, Operating Model
Client Operations

RBC Dexia Investor Services Trust UK Branch T +44 (0)20 7029 0833 M +44
(0) 7713 388461

rbcdexia.com | Follow us: [Twitter](#) [LinkedIn](#) [RSS](#)

-----Original Message-----

From: Brad Mix [mailto:bdmix@gov.pe.ca]
Sent: 16 March 2012 15:01
To: Barrow, Karl (RBC Dexia IS)
Subject: Re: Follow up to PEI presentation to RBC Dexia

Hi Karl,
Thank you for email. Please contact me anytime at 902-367-1846 or
902-368-5957 or through email with any questions or comments. I am
looking forward to working with you on this project.

Regards,
Brad

>>> "Barrow, Karl (RBC Dexia IS)" <karl.barrow@rbcdexia.com> 3/16/2012
>>> 9:48 AM >>>
Brad,

I work for Joanna Meager at RBC Dexia. She has passed the presentation
about PEI, that you recently discussed with her and Lynne Hibbert-Logan,
on to me. I will review this and contact you again next week with any
questions I might have with regard to the financial numbers used.

Regards
Karl

Karl Barrow
Director, Operating Model
Client Operations

RBC Dexia Investor Services Trust UK Branch T +44 (0)20 7029 0833 M +44
(0) 7713 388461

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The contents of any attachment to this e-mail may contain software viruses or other defect which might affect your own computer system once received or opened. While companies under RBC Dexia Investor Services Trust and its affiliates take reasonable precautions to minimize that risk, we cannot accept liability or responsibility for any damage or loss which may occur or be sustained as a result of a software virus or other defect. You are responsible for virus checks before opening any attachment.

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From: Wes Sheridan
To: Melissa MacEachern, Allen Roach, Brad Mix
CC: Cheryl Paynter
Date: 6/7/2012 10:07 AM
Subject: Re: RBC Dexia Status

Thanks Brad,
Good Idea.
Wes.

-----Original Message-----

From: Brad Mix
To: Allen Roach <afroach@gov.pe.ca>
Wes Sheridan <WJSHERIDAN@gov.pe.ca>
Melissa MacEachern <mamaceachern@gov.pe.ca>
CC: Cheryl Paynter <clpaynter@gov.pe.ca>
Creation Date: 6/7 10:03 am
Subject: RBC Dexia Status

Not sure if I sent this to you. Please find below feedback from Joanna Meager on status of a PEI location that was sent within the last 2 weeks. I am not sure the effects of RBC taking 100% of the company. Minister Sheridan, I know you have a couple of upcoming meetings with John Lockbaum. Although John is Managing Director of Canada, I am not sure if he is in the loop of the future direction of the company. John has not been copied on any correspondence that I have had with Joanna's office. Tricky situation and certainly do not want to get into the middle of an internal issue at RBC but Joanna has been very clear with me that her office is making the decisions. Maybe the question for John is "how does RBC take out of Dexia effect the future operation and direction of the company?"

Hi Brad

We are in the middle of a full evaluation of our Canadian model within which we are including PEI

Best regards

Joanna Meager
Global Head of Client Operations
Member of Global Executive Committee

From: Brad Mix
To: Wes Sheridan
Date: 7/12/2012 8:58 AM
Subject: Re: RBC Dexia.

No, it has been quiet on their end. My understanding is that they are trying to close the Dexia deal at the end of the month.

Are you comfortable with the proposal document I sent to you a week ago? Not sure if John knows that Joanna wanted us to quote on 600 positions.

-----Original Message-----

From: Wes Sheridan
To: Brad Mix <BDMIX@gov.pe.ca>

Sent: 7/12/2012 8:47:33 AM
Subject: RBC Dexia.

Any further update on discussions with John Lochbaum for today Brad? If so, please give me a call on my cell...314-5674.

Thanks,
Wes.

Brad Mix - Recruitment and site location plan for RBC Dexia

From: Brad Mix
To: Allen Roach; Cheryl Paynter
Date: 7/19/2012 11:25 AM
Subject: Recruitment and site location plan for RBC Dexia

Hi Minister and Cheryl,

Spoke to Minister Sheridan today, he had a good meeting with John Lockbaum from RBC last Thursday. PEI is still being considered for a near-shore location but of course RBC's main concern is the size of our labour pool and getting good quality candidates with experience. PEI is also competing with an unknown US site and a site in Central America. Company is dedicated to coming to PEI for a site tour.

To be pro-active in trying to relieve RBC's fears of our labour pool size and capacity, I am going to work with Ceridian on a full labour recruitment plan that will identify candidates and recruitment process. In anticipation of the site visit, I am going to work with CADC on office site location plan. Full package to be completed within 3 weeks in anticipation of a site visit.

Any questions, let me know.
Brad

From: Wes Sheridan
To: BDMIX@gov.pe.ca
Date: 7/27/2012 1:04 PM
Subject: Re: RBC Investor Services

I will be out of the office enjoying three days of vacation with Sandra, returning Tuesday, July 31, 2012. Please contact Ruth Chandler at richandler@gov.pe.ca or Ivan Gallant at ijgallant@gov.pe.ca. Thank you for your understanding.

>>> Brad Mix 07/27/12 13:04 >>>

Our number one prospect...Introducing RBC Investor Services... A message from José Placido, CEO, RBC Dexia Investor Services and Jim Westlake, Group Head, International Banking and Insurance, RBC Today, we begin an exciting new chapter in our business as RBC Investor Services Limited, a wholly-owned subsidiary of RBC, one of the largest and most financially sound banks in the world. The press release is available here (LINK).

As announced on April 3, RBC agreed to purchase Dexia's 50% share of RBC Dexia Investor Services Limited. This transaction has received all necessary regulatory approvals and is now complete. To reflect our new ownership, our global brand name will change to RBC Investor Services. We will be making corresponding changes to the legal entity names within the Group, including RBC Investor Services Bank, RBC Investor Services Trust, and RBC Investor Services Limited, but otherwise will not be making any changes to the legal entity structure of the Group. We anticipate that these name changes will be completed before commencement of business on Monday, July 30.

RBC Investor Services is a premier provider of investor services to asset managers, financial institutions and other institutional investors worldwide. Our clients will benefit from RBC's financial strength, complementary capabilities through wealth management and capital markets, and commitment to growth. Together, RBC and RBC Investor Services look forward to helping our clients achieve their ambitions through our global reach, technology and product innovation, and dedication to client service excellence.

We are committed to ensuring a seamless transition and will keep you updated on developments as we move forward.

Jim Westlake
Group Head, International Banking and Insurance, RBC

José Placido
CEO, RBC Dexia Investor Services

Brad Mix - RBC Investor Services

From: Brad Mix
To: Allen Roach; Cheryl Paynter; Melissa MacEachern; Wes Sheridan
Date: 7/27/2012 1:04 PM
Subject: RBC Investor Services

Our number one prospect...

Introducing RBC Investor Services... A message from José Placido, CEO, RBC Dexia Investor Services and Jim Westlake, Group Head, International Banking and Insurance, RBC

Today, we begin an exciting new chapter in our business as RBC Investor Services Limited, a wholly-owned subsidiary of RBC, one of the largest and most financially sound banks in the world. The press release is available here ([LINK](#)).

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We are committed to ensuring a seamless transition and will keep you updated on developments as we move forward.

Jim Westlake
Group Head, International Banking and Insurance, RBC

José Placido
CEO, RBC Dexia Investor Services

From: Cheryl Paynter
To: Brad Mix
Date: 7/27/2012 3:00 PM
Subject: Re: RBC Investor Services

You are wearing her down brad.)

-----Original Message-----

From: Brad Mix
To: Melissa MacEachern <mamaceachern@gov.pe.ca>
To: Cheryl Paynter <cpaynter@gov.pe.ca>

Sent: 27/07/2012 3:00:17 PM
Subject: Re: RBC Investor Services

This is a good sign, Joanna got right back to me with the following note:

Thank you. It is a great day for us and I really appreciate your note

Best regards
Joanna

>>> Melissa MacEachern 7/27/2012 1:24 PM >>>
I'll touch base with the VP who works for him and see what they can do.

Melissa A. MacEachern
Deputy Minister
Department of Innovation and Advanced Learning
902-368-4250
Province of Prince Edward Island
mamaceachern@gov.pe.ca

-----Original Message-----

From: Brad Mix
To: Melissa MacEachern <mamaceachern@gov.pe.ca>
To: Cheryl Paynter <cpaynter@gov.pe.ca>

Sent: 7/27/2012 1:19:06 PM
Subject: Re: RBC Investor Services

No, I have not met Jim but have heard his name several times. Just typing a note to Joanna Meager congratulating her on the announcement. Without offending her, we do need to make sure our message is being heard at Jim's level. It would be great to meet with Jim and I am available anytime.

>>> Melissa MacEachern 7/27/2012 1:09 PM >>>
Jim Westlake is someone I've met several times. Have you met with him Brad or need to?

Melissa A. MacEachern
Deputy Minister
Department of Innovation and Advanced Learning
902-368-4250
Province of Prince Edward Island
mamaceachern@gov.pe.ca

-----Original Message-----

From: Brad Mix
To: Melissa MacEachern <mamaceachern@gov.pe.ca>

To: Cheryl Paynter <cpaynter@gov.pe.ca>
To: Allen Roach <aroach@gov.pe.ca>
To: Wes Sheridan <WJSHERIDAN@gov.pe.ca>

Sent: 7/27/2012 1:04:23 PM
Subject: RBC Investor Services

Our number one prospect...Introducing RBC Investor Services... A message from José Placido, CEO, RBC Dexia Investor Services and Jim Westlake, Group Head, International Banking and Insurance, RBC Today, we begin an exciting new chapter in our business as RBC Investor Services Limited, a wholly-owned subsidiary of RBC, one of the largest and most financially sound banks in the world. The press release is available here ([LINK](#)).

As announced on April 3, RBC agreed to purchase Dexia's 50% share of RBC Dexia Investor Services Limited. This transaction has received all necessary regulatory approvals and is now complete. To reflect our new ownership, our global brand name will change to RBC Investor Services. We will be making corresponding changes to the legal entity names within the Group, including RBC Investor Services Bank, RBC Investor Services Trust, and RBC Investor Services Limited, but otherwise will not be making any changes to the legal entity structure of the Group. We anticipate that these name changes will be completed before commencement of business on Monday, July 30.

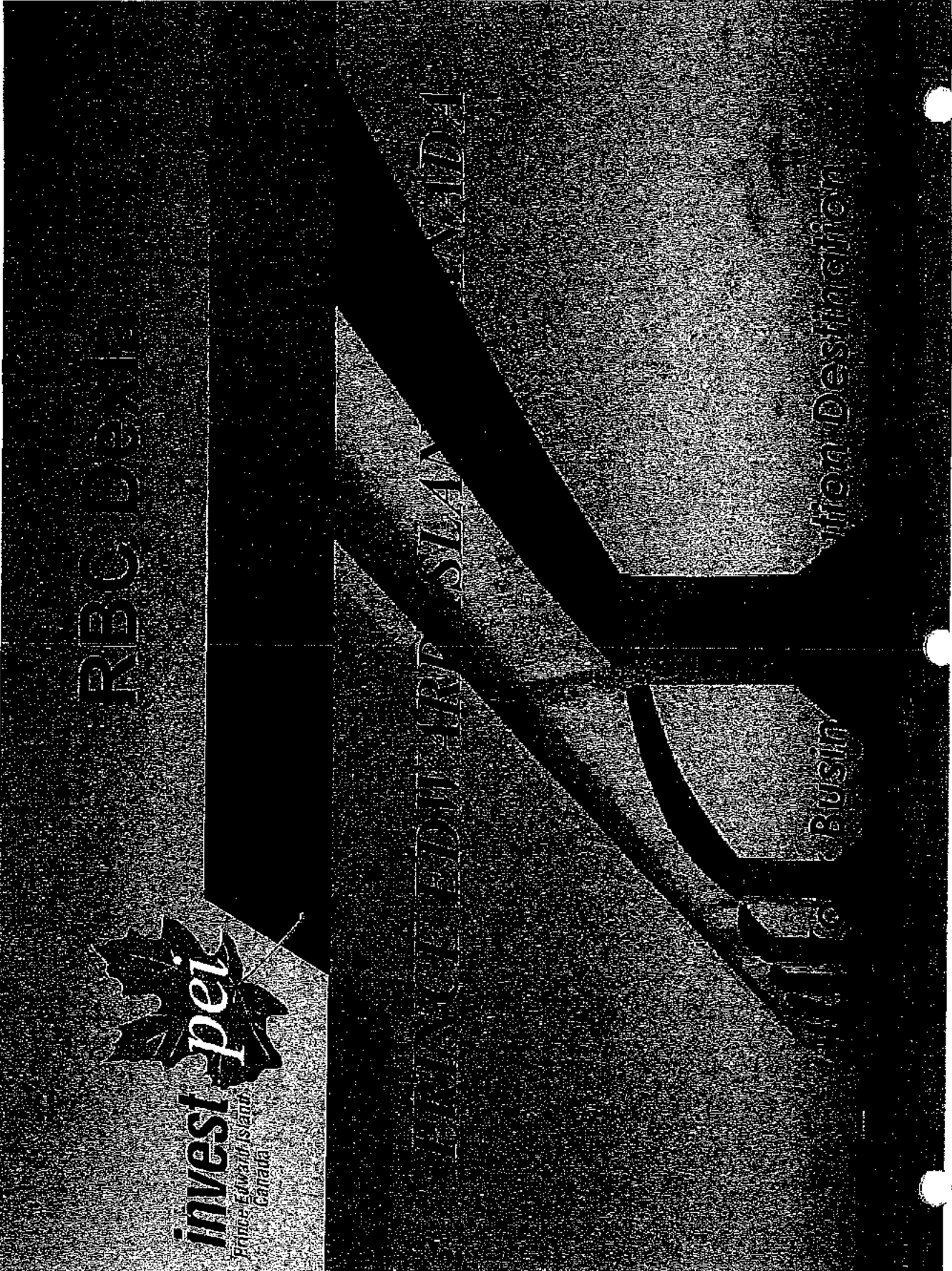
RBC Investor Services is a premier provider of investor services to asset managers, financial institutions and other institutional investors worldwide. Our clients will benefit from RBC's financial strength, complementary capabilities through wealth management and capital markets, and commitment to growth. Together, RBC and RBC Investor Services look forward to helping our clients achieve their ambitions through our global reach, technology and product innovation, and dedication to client service excellence.

We are committed to ensuring a seamless transition and will keep you updated on developments as we move forward.

Jim Westlake
Group Head, International Banking and Insurance, RBC

José Placido
CEO, RBC Dexia Investor Services

From: Pam Gorveatt
To: Brad Mix
Date: 9/21/2012 2:34 PM
Subject: RBC Investor Services Presentation September 20, 2012..ppt
Attachments: RBC Investor Services Presentation September 20, 2012..ppt



Innovation PEI provides an "Ease of Transition" for RBC Dexia for a near-shore location

The Business Case

Move in ready office space

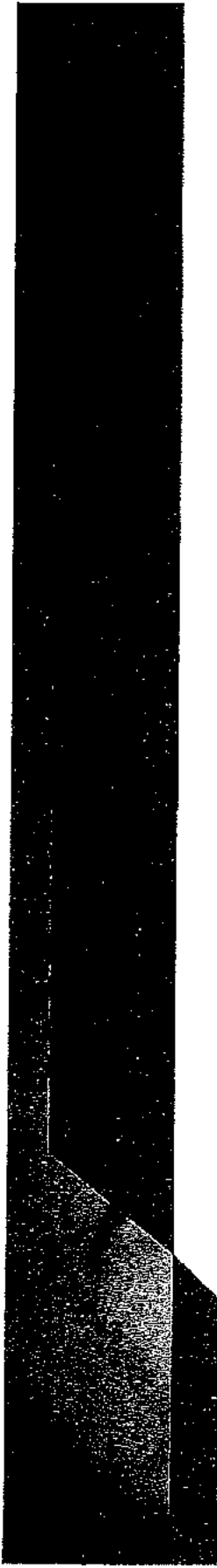
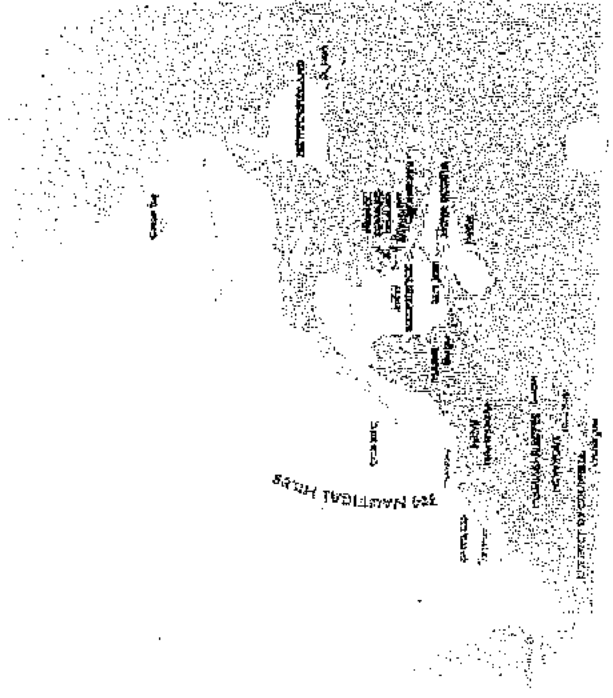
Recruitment package

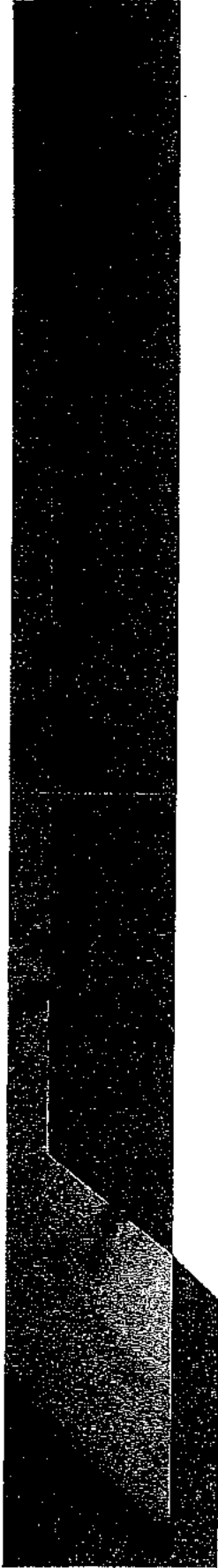
Tailored incentive packages

- Corporate income tax rebate program
- Training and recruitment plan
- Labour incentive rebate program



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Charlottetown Office Space -- new build

Foot print: 15,000 sq. ft.
 Availability: December 1, 2012

Lease Rate: \$22/sq. ft.
 Parking: Fitzroy & Pownal St.
 Status: to be constructed

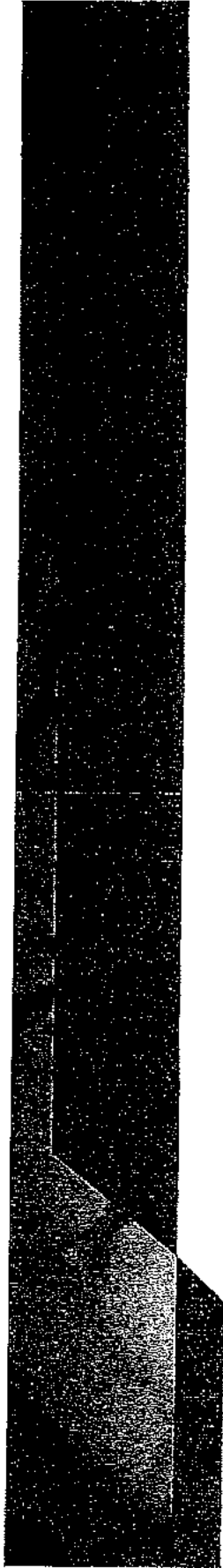
Networked: yes
 Number of Floors: 4
 Heating/Cooling: oil
 Loading Doors: no

Restrooms: yes check by
 Total sq/ft.: 60,000 sq. ft.




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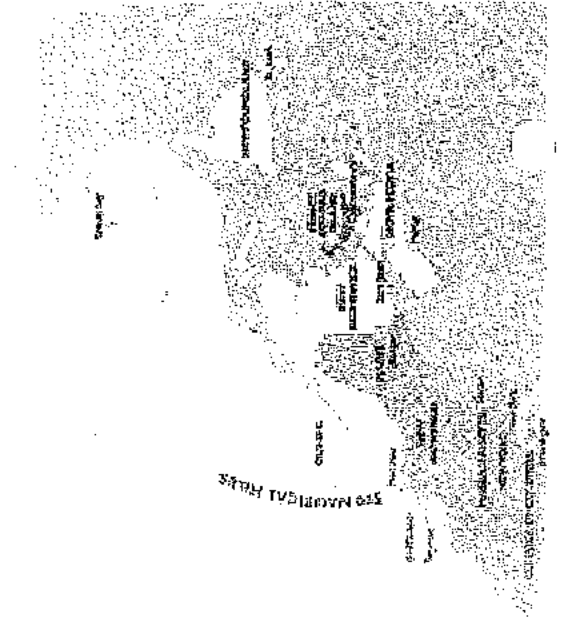
Tailored incentive packages

Corporate tax rebate program – For RBC Dexia exporting financial services from Prince Edward Island, a rebate on the provincial portion of corporate income tax. Savings compared to an Ontario location:

- 11.5% effective July 1, 2011;
- 11% effective July 1, 2012; and
- 10% effective July 1, 2013.



innovationpei



**Financial Incentives with 600 employees in
Prince Edward Island**

| | |
|---|---|
| Number of Employees | 200 positions going to 600 |
| Estimated Payroll Per Year – (Estimated Average payroll of \$50,000) | First year - \$10,000,000 Year 2-10 - \$30,000,000 |
| Labour Rebate for first year (37.5% - 200 positions) | \$3,750,000 |
| Rental Incentive for first year | \$400,000 |
| Training Incentive | \$200,000 |
| Labour rebate (7.5% for 10 years – 400 positions) | \$15,000,000 |
| Total Rebate | \$19,350,000 |

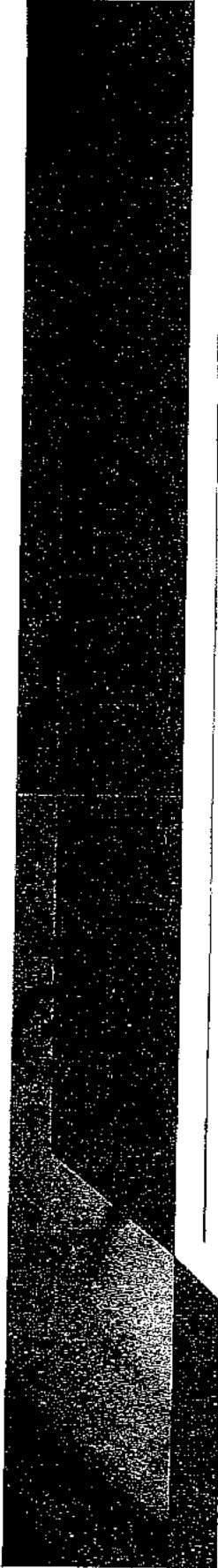


(Faint background text and stamps, including 'NAUTICAL' and 'PEI')

**Example
Summary of Benefits – For 10 years of Operation**

| | |
|---|---------------------|
| Number of Employees | 600 |
| Labour Savings – 20% cost saving vs. Toronto per year for 10 years. (\$6,000,000 per year) | \$56,000,000 |
| Office Savings – a savings of at least \$6.00 per square foot on 60,000 sq feet. | \$3,640,000 |
| Financial Incentives – Labour Rebate | \$19,350,000 |
| Total Cost Saving with Rebates | \$78,990,000 |





Wrap up – The PEI Advantage

- Favorable investment climate
- Competitive – low cost business operating environment
- Available skilled labour force
- Partners who want to help you succeed

**Brad Mix, Senior Director
Innovation PEI**

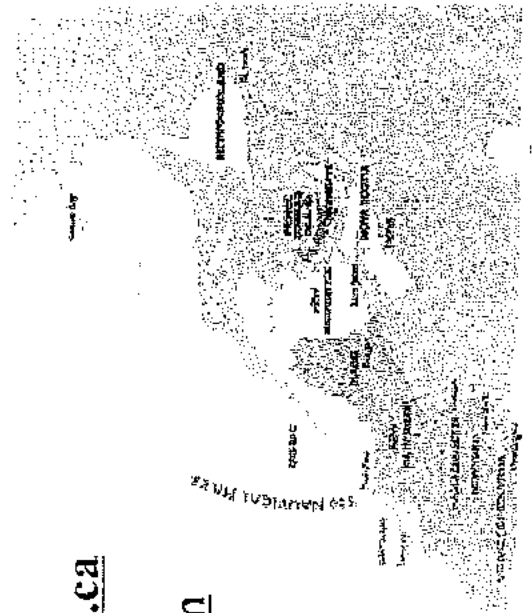
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17



Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

July 23, 2019

2019-089 EGTC

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Growth, Tourism and Culture, as follows:

"All records, in any formats, electronic or otherwise, of Brad Mix which were either sent to - or received from - Richard Cato, or make mention of a company called "Claimatrix" from February 1, 2011 to July 1, 2011."

I am writing to inform you that we are providing access to the records. A copy of the records is attached.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

Attachment

c: APSO

18

From: Brad Mix
Date: 6/6/2011
Time: 10:00 AM - 11:00 AM
Subject: Call Richard Cato

Innovation PEI

2010/2011
201102-33

CLIENT INFORMATION

| | |
|--|-----------------------------|
| Client Name: Innovation PEI - ICT | Sector: IT & Communications |
| Contact Person: Brad Mix | Telephone: |
| Address: 94 Euston Street Charlottetown PEI, C1A 7L9 | Fax: |
| WebSite Address: www.investpal.ca | E-Mail Address: |

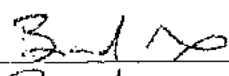
PROJECT DESCRIPTION

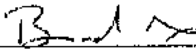
| | | | |
|--|-------------------------------|--|--|
| Project Title: Market Intelligence and Claims Processing Feasibility | | | |
| Project Officer: Brad Mix | Division: Business Investment | | |
| Jobs Planned: nc | Jobs Maintained: nc | Exporting: | <input type="checkbox"/> |
| Start Date: 07 Feb 2011 | Completion Date: 31 Mar 2011 | Electoral District: (00) Province Wide | Application Received Date: 07 Feb 2011 |

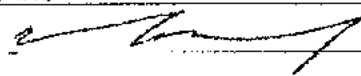
COMMUNICATIONS:

| | | |
|--------------------------------------|-----------------|-----------------|
| External Communications Required: No | Time Frame: N/A | Sensitivity: No |
|--------------------------------------|-----------------|-----------------|

AUTHORIZATION:

Officer Recommendation:  Date: 02/11/11

Director Authorization:  Date: 02/11/11

Chief Executive Officer Authorization:  Date: 02/14/11

Deputy Minister: _____ Date: _____

Minister: _____ Date: _____

REQUESTED INNOVATION PEI PARTICIPATION

| Program | Client Contribution | Other Govt. | Innovation PEI Contribution | Total |
|--------------------------|---------------------|-------------|-----------------------------|-----------|
| Development Fund - 7500 | | | | |
| Market/Feasibility Study | 0.00 | 0.00 | 15,000.00 | 15,000.00 |
| | 0.00 | 0.00 | 15,000.00 | 15,000.00 |

SUMMARY:

Innovation PEI is going to contract Pat Mason to undertake a feasibility study and market presentation on the establishment of a back office centre for the financial services / gaming sector. A business case is being developed for three companies - Virgin Gaming, Claimatrix, and Ethioica to establish a back office claims processing and customer service centre in PEI.

The final deliverable will be a market presentation and feasibility study highlighting PEI's IT infrastructure, labour pool, IT company profile, business cost analysis, and possible incentive plan. This information will be presented to the boards of the three companies above to determine a possible fit in PEI.

Pat Mason is a well respected consultant in the financial services sector.

THIS AGREEMENT made this 17th day of February, 2011

BETWEEN: INNOVATION PEI

(hereinafter referred to as the "IPEI")

OF THE FIRST PART

AND: Tech Markets Inc.

(hereinafter referred to as the "Consultant")

OF THE SECOND PART

Market Intelligence & Claims Processing Feasibility Study

WHEREAS IPEI wishes to engage the services of the Consultant to carry out the work described in Schedule A herein;

AND WHEREAS the Consultant has agreed to provide IPEI with these services on certain terms and conditions;

NOW THEREFORE the parties agree that the terms and conditions of their relationship are as follows:

Covenants of the Consultant and IPEI

1. The Consultant shall perform the services, assume all those responsibilities and diligently execute all those duties described in the attached Schedule "A" in a manner satisfactory to IPEI (the "Project").
- 2.(a) Subject to the termination clause, the term of this Agreement shall commence on **February 7, 2011** and end on **March 31, 2011**.
- (b) Subject to the termination clause of this Agreement and notwithstanding the date of signing of this Agreement, it is acknowledged by both parties that the Consultant commenced the performance of the duties under the Project as set out in this contract February 7, 2011.

Payments, Records and Accounts

3. IPEI shall make payments to the Consultant in the following manner:
- (a) Payment for work rendered under this Agreement shall be the total payment of **\$10,000**. GST is not included in this price.
 - (b) Payment terms will be:
 - Fifty percent (50%) or \$5,000 plus GST will be required upon this Agreement signed by both IPEI and the Consultant.
 - The remaining fifty percent (50%) or \$5,000 plus GST, due upon completion of the Project.
 - (c) The Consultant shall keep proper accounts and records of the cost to the Consultant of the work associated with the Project and of all expenditures or commitments made by the Consultant under this Agreement including the related invoices, receipts and vouchers. Such accounts, invoices, receipts and vouchers shall, at all times, be open to audit, copying, extracting information and inspection by the authorized representatives of IPEI. The Consultant shall afford all facilities for the audits, inspections, copying, extractions and inspections and shall furnish IPEI and its authorized representatives with all information that is requested from the accounts, records, invoices, receipts and vouchers .
 - (d) The Consultant shall not, without the consent of IPEI, dispose of the accounts, records, invoices, receipts and vouchers related to this Agreement, but shall preserve and keep the same available for audit, copying, extracting information and inspections at any time.

Conditions and Records of Employment

- 4.(a) The parties agree that the Consultant shall act as an independent contractor and that he is entitled to no other benefits or payments whatsoever than those specified in Payments, Records and Accounts hereof.
- (b) The parties agree that entry into this Agreement will not result in the appointment or employment of the Consultant as an officer, clerk or employee of IPEI, nor shall the Civil Service Act, R.S.P.E.I. 1988, Cap. C-8 apply.

5. (a) The Consultant agrees to accept sole responsibility to submit any applications, reports, payments or contributions for Sales Taxes, Income Tax, Canada Pension Plan, Employment Insurance, Workers' Compensation assessments, Goods and Services Tax or any other similar matter which the Consultant as a self-employed person may be required by law to make in connection with the work to be performed under this Agreement.
- (b) The Consultant agrees to accept sole responsibility to comply with all Federal, Provincial and Municipal Legislation which may have application to the work being performed under this Agreement.
- (c) The Consultant shall comply with all provincial and federal legislation affecting conditions of work and wage rates including the *Employment Standards Act R.S.P.E.I. 1988, Cap E- 6.2*, the *Workers Compensation Act R.S.P.E.I. 1988 Cap W-3* or any other laws that impose obligations in the nature of employers' obligations.
- (d) The Consultant agrees to accept the full cost of doing those things required under subparagraphs 5(a), 5(b), and 5(c) above, and will not charge or seek reimbursement from IPEI in any way; such costs having been taken into consideration and included in the rates of payment stipulated in Payments, Records and Accounts above.

Reports and Administration

6. (a) The Consultant shall make interim reports as IPEI may direct.

Confidentiality and Copyright

7. Any and all information knowledge or data made available to the Consultant as a result of this Agreement shall be treated as confidential information. The Consultant will not directly or indirectly disclose or use it for purposes unrelated to the Agreement at any time without first obtaining the written consent of IPEI, unless the information, knowledge or data is generally available to the public.
8. (a) The parties agree that all lists, reports, information, statistics, compilations, analyses, and other data generated or collected in any way as a result of this Agreement are the exclusive property of IPEI and shall not be distributed, released, transmitted or used in any way, via any media, outside the purposes of this Agreement, by the Consultant, its employees, agents, servants or others for whom the Consultant is responsible, without the written consent of IPEI.

- (b) The parties agree that Government owns the copyright on all aspects of the Project, including all manner of data as set out in paragraph 8 (a) above and including all software developed as a result of the project whether in the form of raw data, analyses, database entries or software or hardware code of any kind or in any form whatsoever, including but not limited to object code and source code and any necessary information with respect to the use of such code such as encryption keys, compiler information and version number.
- (c) The Consultant relinquishes all rights to the Work Product created pursuant to this Agreement, including all rights, including moral rights otherwise accruing to the Consultant pursuant to the Copyright Act, R.S.C. 1985, C-42.

Freedom of Information and Protection of Privacy Act

- 9. Any information provided on this contract may be subject to release under the *Freedom of Information and Protection of Privacy Act*. You will be consulted prior to release of any information.
- 10. Contractors whose work for government involves the collection or use of personal information are subject to the *Freedom of Information and Protection of Privacy Act*. Personal information may not be released to any third party or unauthorized individual.

Indemnification and Assumption of Liability

- 11. The Consultant shall indemnify and hold harmless IPEI, its agents, representatives and employees from and against all claims, demands, losses, costs, damages, actions, suits or proceedings of every nature and kind whatsoever arising out of or resulting from the performance of work associated with the Project (herein called the "claims"), provided that any such claim is caused in whole or in part by any act, error or omission, including, but not limited to, those of negligence, of the Consultant or anyone directly or indirectly employed by the Consultant or anyone for whom the Consultant may be liable.

Termination

- 12. The parties agree that this Agreement may be terminated by IPEI in the following circumstances:
 - (a) Any material breach of the provisions of this Agreement by the Consultant;
 - (b) Consistent poor performance on the part of the Consultant, after being advised as to the standard required;


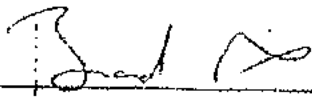
- (c) Any intentional or grossly negligent disclosure of information by the Consultant;
- (d) The Consultant violates any local, provincial or federal statute including, without limitation, an act of dishonesty such as fraud, embezzlement or theft;
- (e) Conduct on the part of the Consultant that is materially detrimental to the business or the financial position of IPEI;
- (f) Personal conduct on the part of the Consultant which is of such a serious and substantial nature that it would injure the reputation of IPEI if the Consultant was retained under this Agreement; and
- (g) Any or all omissions, commissions or other conduct which would constitute "cause" at law, in addition to the specified causes.

Entire Agreement

- 13. This Agreement shall be interpreted and applied in accordance with the laws and in the Courts of the Province of Prince Edward Island.
- 14. This Agreement, including Schedule A, constitutes and expresses the entire Agreement of the parties hereto and any amendment or addition thereto shall be in writing and signed by the respective parties.
- 15. The headings are inserted in this Agreement for reference only and shall not form part of the Agreement.

IN WITNESS WHEREOF the parties thereto have executed this Agreement as of the day and year above written.

SIGNED, SEALED & DELIVERED) **INNOVATION PEI**
in the presence of:)

) 
_____) _____

SIGNED, SEALED & DELIVERED) **Tech Markets Inc.**
in the presence of:)

) 
_____) _____

SCHEDULE "A"

The Consultant will undertake a feasibility study and market presentation on the establishment of a back office centre for the financial services/gaming sector. A business case is being developed for three companies, namely, Virgin Gaming, Claimatrix and Ethocia to establish a back office claims processing and customer service centre in Prince Edward Island.

- interviews with key personnel within the Province of PEI as well as other stakeholders involved in the sector.
- Identify specific elements of each company's value chain that can be supported from PEI
- provide proof points how PEI could address key elements of sector value chains
- submit a final report that provides high-level overview of the key advantages of companies moving, wholly or in-part, to PEI.

Costs

Payment for work rendered under this Agreement shall be the total payment of **\$10,000**. GST is not included in this price.

Payment terms will be:

- Fifty percent (50%) or \$5,000 plus GST will be required upon this Agreement signed by both IPEI and the Consultant.
- The remaining fifty percent (50%) or \$5,000 plus GST, due upon completion of the Project.

19



Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

July 23, 2019

2019-090 EGTC

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Growth, Tourism and Culture, as follows:

"All records, in any formats, electronic or otherwise, of Brad Mix which were either sent to - or received from - Andre Edelbrock, or make mention of company called "Ethoca" from February 1, 2011 to July 1, 2011."

I am writing to inform you that we are providing access to the records. A copy of the records is attached.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

Attachment

c: APSO

20

Innovation PEI

2010/2011

201102-33

CLIENT INFORMATION

| | | | |
|-----------------|---|----------------|---------------------|
| Client Name | Innovation PEI - ICT | Sector | IT & Communications |
| Contact Person | Brad Mix | Telephone | |
| Address | 04 Euston Street Charlottetown PEI, C1A 7L9 | Fax | |
| WebSite Address | www.investpei.ca | E-Mail Address | |

PROJECT DESCRIPTION

| | | | |
|-----------------|---|---------------------------|--------------------------|
| Project Title | Market Intelligence and Claims Processing Feasibility | | |
| Project Officer | Brad Mix | Division | Business Investment |
| Jobs Planned | no | Exporting | <input type="checkbox"/> |
| Jobs Maintained | no | Electoral District | (00) Province Wide |
| Start Date | 07 Feb 2011 | Completion Date | 31 Mar 2011 |
| | | Application Received Date | 07 Feb 2011 |

COMMUNICATIONS:

| | | | | | |
|-----------------------------------|----|-------------|-----|--------------|----|
| External Communications Required: | No | Time Frame: | N/A | Sensitivity: | No |
|-----------------------------------|----|-------------|-----|--------------|----|

AUTHORIZATION:

Officer Recommendation : Brad Mix Date: 02/11/11

Director Authorization: Brad Mix Date: 02/11/11

Chief Executive Officer Authorization: [Signature] Date: 02/14/11

Deputy Minister: _____ Date: _____

Minister: _____ Date: _____

REQUESTED INNOVATION PEI PARTICIPATION

| Program | Client Contribution | Other Govt. | Innovation PEI Contribution | Total |
|--------------------------|---------------------|-------------|-----------------------------|------------------|
| Development Fund - 7500 | | | | |
| Market/Feasibility Study | 0.00 | 0.00 | 15,000.00 | 15,000.00 |
| | <u>0.00</u> | <u>0.00</u> | <u>15,000.00</u> | <u>15,000.00</u> |

SUMMARY:

Innovation PEI is going to contract Pat Mason to undertake a feasibility study and market presentation on the establishment of a back office centre for the financial services / gaming sector. A business case is being developed for three companies - Virgin Gaming, Claimatrix, and Etholca to establish a back office claims processing and customer service centre in PEI.

The final deliverable will be a market presentation and feasibility study highlighting PEI's IT infrastructure, labour pool, IT company profile, business cost analysis, and possible incentive plan. This information will be presented to the boards of the three companies above to determine a possible fit in PEI.

Pat Mason is a well respected consultant in the financial services sector.

THIS AGREEMENT made this 17th day of February, 2011

BETWEEN: **INNOVATION PEI**

(hereinafter referred to as the "IPEI")

OF THE FIRST PART

AND: **Tech Markets Inc.**

(hereinafter referred to as the "Consultant")

OF THE SECOND PART

Market Intelligence & Claims Processing Feasibility Study

WHEREAS IPEI wishes to engage the services of the Consultant to carry out the work described in Schedule A herein;

AND WHEREAS the Consultant has agreed to provide IPEI with these services on certain terms and conditions;

NOW THEREFORE the parties agree that the terms and conditions of their relationship are as follows:

Covenants of the Consultant and IPEI

1. The Consultant shall perform the services, assume all those responsibilities and diligently execute all those duties described in the attached Schedule "A" in a manner satisfactory to IPEI (the "Project").
- 2.(a) Subject to the termination clause, the term of this Agreement shall commence on **February 7, 2011** and end on **March 31, 2011**.
- (b) Subject to the termination clause of this Agreement and notwithstanding the date of signing of this Agreement, it is acknowledged by both parties that the Consultant commenced the performance of the duties under the Project as set out in this contract February 7, 2011.

Payments, Records and Accounts

3. IPEI shall make payments to the Consultant in the following manner:
- (a) Payment for work rendered under this Agreement shall be the total payment of **\$10,000**. GST is not included in this price.
 - (b) Payment terms will be:
 - Fifty percent (50%) or \$5,000 plus GST will be required upon this Agreement signed by both IPEI and the Consultant.
 - The remaining fifty percent (50%) or \$5,000 plus GST, due upon completion of the Project.
 - (c) The Consultant shall keep proper accounts and records of the cost to the Consultant of the work associated with the Project and of all expenditures or commitments made by the Consultant under this Agreement including the related invoices, receipts and vouchers. Such accounts, invoices, receipts and vouchers shall, at all times, be open to audit, copying, extracting information and inspection by the authorized representatives of IPEI. The Consultant shall afford all facilities for the audits, inspections, copying, extractions and inspections and shall furnish IPEI and its authorized representatives with all information that is requested from the accounts, records, invoices, receipts and vouchers.
 - (d) The Consultant shall not, without the consent of IPEI, dispose of the accounts, records, invoices, receipts and vouchers related to this Agreement, but shall preserve and keep the same available for audit, copying, extracting information and inspections at any time.

Conditions and Records of Employment

- 4.(a) The parties agree that the Consultant shall act as an independent contractor and that he is entitled to no other benefits or payments whatsoever than those specified in Payments, Records and Accounts hereof.
- (b) The parties agree that entry into this Agreement will not result in the appointment or employment of the Consultant as an officer, clerk or employee of IPEI, nor shall the Civil Service Act, R.S.P.E.I. 1988, Cap. C-8 apply.

5. (a) The Consultant agrees to accept sole responsibility to submit any applications, reports, payments or contributions for Sales Taxes, Income Tax, Canada Pension Plan, Employment Insurance, Workers' Compensation assessments, Goods and Services Tax or any other similar matter which the Consultant as a self-employed person may be required by law to make in connection with the work to be performed under this Agreement.
- (b) The Consultant agrees to accept sole responsibility to comply with all Federal, Provincial and Municipal Legislation which may have application to the work being performed under this Agreement.
- (c) The Consultant shall comply with all provincial and federal legislation affecting conditions of work and wage rates including the *Employment Standards Act R.S.P.E.I. 1988, Cap E- 6.2*, the *Workers Compensation Act R.S.P.E.I. 1988 Cap W-3* or any other laws that impose obligations in the nature of employers' obligations.
- (d) The Consultant agrees to accept the full cost of doing those things required under subparagraphs 5(a), 5(b), and 5(c) above, and will not charge or seek reimbursement from IPEI in any way; such costs having been taken into consideration and included in the rates of payment stipulated in Payments, Records and Accounts above.

Reports and Administration

6. (a) The Consultant shall make interim reports as IPEI may direct.

Confidentiality and Copyright

7. Any and all information, knowledge or data made available to the Consultant as a result of this Agreement shall be treated as confidential information. The Consultant will not directly or indirectly disclose or use it for purposes unrelated to the Agreement at any time without first obtaining the written consent of IPEI, unless the information, knowledge or data is generally available to the public.
8. (a) The parties agree that all lists, reports, information, statistics, compilations, analyses, and other data generated or collected in any way as a result of this Agreement are the exclusive property of IPEI and shall not be distributed, released, transmitted or used in any way, via any media, outside the purposes of this Agreement, by the Consultant, its employees, agents, servants or others for whom the Consultant is responsible, without the written consent of IPEI.

- (b) The parties agree that Government owns the copyright on all aspects of the Project, including all manner of data as set out in paragraph 8 (a) above and including all software developed as a result of the project whether in the form of raw data, analyses, database entries or software or hardware code of any kind or in any form whatsoever, including but not limited to object code and source code and any necessary information with respect to the use of such code such as encryption keys, compiler information and version number.
- (c) The Consultant relinquishes all rights to the Work Product created pursuant to this Agreement, including all rights, including moral rights otherwise accruing to the Consultant pursuant to the Copyright Act, R.S.C. 1985, C-42.

Freedom of Information and Protection of Privacy Act

- 9. Any information provided on this contract may be subject to release under the *Freedom of Information and Protection of Privacy Act*. You will be consulted prior to release of any information.
- 10. Contractors whose work for government involves the collection or use of personal information are subject to the *Freedom of Information and Protection of Privacy Act*. Personal information may not be released to any third party or unauthorized individual.

Indemnification and Assumption of Liability

- 11. The Consultant shall indemnify and hold harmless IPEI, its agents, representatives and employees from and against all claims, demands, losses, costs, damages, actions, suits or proceedings of every nature and kind whatsoever arising out of or resulting from the performance of work associated with the Project (herein called the "claims"), provided that any such claim is caused in whole or in part by any act, error or omission, including, but not limited to, those of negligence, of the Consultant or anyone directly or indirectly employed by the Consultant or anyone for whom the Consultant may be liable.

Termination

- 12. The parties agree that this Agreement may be terminated by IPEI in the following circumstances:
 - (a) Any material breach of the provisions of this Agreement by the Consultant;
 - (b) Consistent poor performance on the part of the Consultant, after being advised as to the standard required;

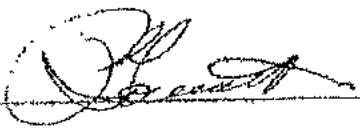
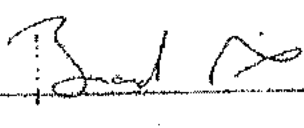
- (c) Any intentional or grossly negligent disclosure of information by the Consultant;
- (d) The Consultant violates any local, provincial or federal statute including, without limitation, an act of dishonesty such as fraud, embezzlement or theft;
- (e) Conduct on the part of the Consultant that is materially detrimental to the business or the financial position of IPEI;
- (f) Personal conduct on the part of the Consultant which is of such a serious and substantial nature that it would injure the reputation of IPEI if the Consultant was retained under this Agreement; and
- (g) Any or all omissions, commissions or other conduct which would constitute "cause" at law, in addition to the specified causes.

Entire Agreement

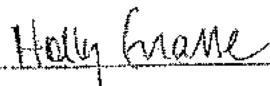
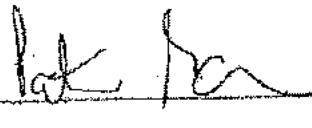
- 13. This Agreement shall be interpreted and applied in accordance with the laws and in the Courts of the Province of Prince Edward Island.
- 14. This Agreement, including Schedule A, constitutes and expresses the entire Agreement of the parties hereto and any amendment or addition thereto shall be in writing and signed by the respective parties.
- 15. The headings are inserted in this Agreement for reference only and shall not form part of the Agreement.

IN WITNESS WHEREOF the parties thereto have executed this Agreement as of the day and year above written.

SIGNED, SEALED & DELIVERED) **INNOVATION PEI**
in the presence of:)

) 
_____) _____

SIGNED, SEALED & DELIVERED) **Tech Markets Inc.**
in the presence of:)

) 
_____) _____

SCHEDULE "A"

The Consultant will undertake a feasibility study and market presentation on the establishment of a back office centre for the financial services/gaming sector. A business case is being developed for three companies, namely, Virgin Gaming, Clalmatrix and Ethocia to establish a back office claims processing and customer service centre in Prince Edward Island.

- interviews with key personnel within the Province of PEI as well as other stakeholders involved in the sector.
- Identify specific elements of each company's value chain that can be supported from PEI
- provide proof points how PEI could address key elements of sector value chains
- submit a final report that provides high-level overview of the key advantages of companies moving, wholly or in-part, to PEI.

Costs

Payment for work rendered under this Agreement shall be the total payment of **\$10,000**. GST is not included in this price.

Payment terms will be:

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- The remaining fifty percent (50%) or \$5,000 plus GST, due upon completion of the Project.

21



Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

August 5, 2019

2019-092 EGTC
BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

Further to our letter dated July 9, 2019, enclosed please find responsive records to your request submitted to the Department of Economic Growth, Tourism and Culture, as follows:

"All records, in any formats, electronic or otherwise, of Allan Roach -then Minister of Innovation - which were either sent to - or received that make mention of a company called "Virgin Gaming from February 1, 2011 to December 1, 2011."

We are providing you access to the records in their entirety.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P.O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Office of the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- A copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erin McGrath-Gaudet', with a stylized flourish at the end.

Erin McGrath-Gaudet
Deputy Minister

Attachment

c: APSO

22

Allen Roach - Signed Agreements

From: Mandeep Saini <mandeep.saini@virgingaming.com>
To: Brad Mix <BDMIX@gov.pe.ca>
Date: 2011-11-15 3:41 PM
Subject: Signed Agreements
CC: Nancy Roberts <ndroberts@gov.pe.ca>
Attachments: PEI Tax Rebate Letter - Signed.pdf; PEI Labour Rebate - Signed.pdf

Hey Guys.....great news....I was finally able to get enough of Harp's time to go through the final agreements. He has signed both the labour rebate contract and tax agreement. I've attached a copy of each for your records. I will courier over two copies of each agreement. If you could execute (I believe the tax one may be done but I'm sending it anyways just in case) and send me back a copy for my records that would be greatly appreciated.

Thanks

Mandeep Saini
Controller | Virgin Gaming
Ph: 416-800-4263 ext. 113
mandeep.saini@virgingaming.com
http://virgingaming.com

innovationpei

innovationipe

September 23, 2011

Intertaintech Corporation c/a
Virgin Gaming
720 King St. West, Suite 820
Toronto, ON M5V 2T3

Attention: Mr. Harp Gahunia, CFO

Dear Mr. Gahunia:

RE: Innovation & Development Labour Rebate ("IDLR") – Project # 201106-11

We are pleased to advise that the Prince Edward Island Government, through Innovation PEI (the "Corporation"), has approved your request for financial assistance on behalf of Intertaintech Corporation c/a Virgin Gaming (the "Company") in respect of your application under the referenced program. The terms and conditions under which the financial assistance has been approved are outlined hereunder. Once accepted, this letter shall form a binding agreement (the "Agreement").

Acceptance of this letter entitles the Company to apply for a period of twelve (12) months per eligible position, commencing December 1, 2011, for a non-repayable rebate of 37.5% of Eligible Labour Expenditures (the "Rebate"). The amount of the Rebate will be based on actual approved Eligible Labour Expenditures as determined at the time of your claim by the Corporation, but in no event shall the Rebate exceed the maximum amount of \$492,188.

The aggregate amount of the Rebate payment will not exceed \$492,188 as shown under the heading Maximum IDLR in the table below. The estimate of Eligible Labour Expenditures relative to this Project is outlined in Schedule I and is summarized as follows:

| Total Project Costs | Estimated Eligible Labour Expenditures | Maximum IDLR |
|---------------------|--|--------------|
| \$1,312,500 | \$1,312,500 | \$492,188 |

1.0 **DEFINITIONS**

For the purpose of this Agreement:

1.1 **Project** means the specified activities, work or undertaking described in the Company's application (the "Application") and summarized in Schedule I.

1.2 **Eligible Labour Expenditures** refers to the Net Cost of Salary or Wages paid by the Company to employees who are residents in Prince Edward Island and who, in carrying out his or her duties for the assigned position, undertake, supervise or directly support work relating to the performance of a specified Project activity. During the Project period, eligible employees must hold a full-time job under the employment contract and work a minimum of 26 hours a week.

Estimated employee positions and eligible labour expenditures are detailed in Schedule II. Eligible Labour Expenditures shall not include Ineligible or Unreasonable Labour Expenditures as hereinafter defined.

1.3 **Net Cost of Salary or Wages** refers to amounts paid to employees that are considered taxable income or taxable benefits in the hands of the employee. Employer CPP and EI contributions are not eligible costs.

1.4 **Ineligible or Unreasonable Labour Expenditures** refers to the salary or wages of an employee whose duties and functions are related to, or in the event of:

- (a) Consultant services;
- (b) Employees or shareholders possessing five (5) percent or greater ownership of the Company;
- (c) Salaries and wage payments to third party companies;
- (d) A position for which a rebate has previously been claimed for twelve months;
- (e) A position which, in the opinion of the Corporation, is the same or substantially the same as a position for which a rebate has previously been claimed for twelve months;
- (f) The Company has replaced an employee rather than increased the total number of employees.

Also excluded are salaries and wage payments previously claimed for the eligible project or a previous project, and any portion of salaries and wages for which public assistance has been specifically provided.

Salaries or wages will be deemed unreasonable if, in the view of the Corporation, salaries and wages are in excess of the compensation level consistent with the position or which are not directly related to the project activity.

Virgin Group
September 23, 2011
Page 3 of 11

The Corporation, in its discretion, reserves the right to deem expenditures Ineligible or Unreasonable Labour Expenditures if the Corporation deems the Company to be in violation of any of the clauses above.

- 1.5 **Related Parties** has the meaning assigned to it under section 251 of the Income Tax Act of Canada, and also includes employees who do not deal at arm's length with the Company, such as parties related through blood relationship, marriage, common law, partnership and adoption.
- 1.6 **IDLR Salary Report** means a report prepared and completed by the Company setting out the employee names, positions and their start dates along with the number of pay periods and gross salary per pay period and total gross salary for each employee upon which a claim for a Rebate is made, which report is more particularly set out in Schedule III attached hereto.

2.0 CLAIMING AND PAYMENT OF THE INNOVATION & DEVELOPMENT LABOUR REBATE

- 2.1 The Rebate shall be disbursed upon evidence, satisfactory to the Corporation, that the Company is complying with the terms and conditions of this Agreement.
- 2.2 On the successful completion of the Project or annually (per fiscal year), whatever the case may be, the Company may apply for the Rebate by submitting, to the Corporation's representative assigned to the Project (per clause 9.1), a completed copy of the IDLR Salary Report (attached as Schedule III) together with the following information:
 - (a) A description of the history of the Project and its status at the time of application for disbursement;
 - (b) An itemized accounting of the expenditures for salary or wages incurred by the Company regarding the Project (the Corporation reserves the right to request a T4 summary, in respect to the subject positions, to confirm the wages reported to the Canada Revenue Agency) and copies of employer remittances;
 - (c) Total expenditures applicable to the Project; and
 - (d) Such other information or documents as the Corporation may require.
- 2.3 The Corporation, in its discretion, reserves the right to suspend, adjust or revoke the Rebate in the event the Company:
 - (a) Does not issue payroll to employees on the regularly scheduled pay dates;or

Virgin Gaming
September 29, 2011
Page 4 of 11

(b) Does not maintain good standing with Canada Revenue Agency due to failure to remit the CPP contributions, EI premiums, and income tax deducted from its employees' income, along with the Company's share of CPP contributions and EI premiums.

2.4 The Corporation, in its discretion, reserves the right to adjust or revoke the Rebate if the Project has not been completed or achieved the agreed upon results. The Company will be responsible to repay to the Corporation, upon demand, any rebates already disbursed under this Project if the Company does not maintain fifteen (15) full time positions in Prince Edward Island until May 30, 2014.

Consequently, within 180 days after each year end, the Company shall file with the Corporation its annual financial statements prepared in accordance with International Financial Reporting Standards as prepared by a qualified accountant and all employee T4's issued during that fiscal year. This information will be required to be submitted until July 31, 2015.

2.5 The Company agrees that any Rebates due to it under this Agreement are to be applied:

- (a) Firstly, to any outstanding loan that the Company may have with any Department or Agency of the Province of Prince Edward Island;
- (b) Secondly, to any amount that is owing as a result of a defaulted financial obligation the Company may have with any Department, or Agency, of the Province of Prince Edward Island;
- (c) Thirdly, to the Company.

The Rebate may not be assigned to any entity except a Department or Agency of the Province of Prince Edward Island, and the Corporation will not acknowledge or give effect to any assignment contrary to this clause 2.5.

3.0 COMPANY STRUCTURE AND SHAREHOLDER LOANS

- 3.1 Where two or more companies amalgamate (within the meaning of subsection 87(1) of the Federal Income Tax Act) and one or more of the companies are party to an IDLR Agreement for which the proceeds have not been disbursed, the new company is deemed to be the same company as each of its predecessor companies, in which case the proceeds of the assistance may be disbursed to the new company.
- 3.2 Where a subsidiary is wound up and subsection 88(1) of the Federal Income Tax Act applies, and the subsidiary is party to an IDLR Agreement for which the proceeds have not been disbursed, the parent company may



Viggo Gaming
September 23, 2011
Page 6 of 11

be deemed, for the purposes of this section, to be the same company as, and a continuation of, the subsidiary.

3.3 The Company will provide written notification to the Corporation, during the period which the contribution is outstanding, of any:

- (a) Change in the capital structure or ownership of the Company or redeem any of its shares which may have a material impact on the Company's operations;
- (b) Make loans or advances, other than payments made for services rendered or provided in the ordinary course of business, to shareholders or persons related to shareholders;
- (c) Repay any monies to any shareholders or persons related to shareholders of the Company including interest on any shareholders' loans;
- (d) For the purpose hereof related persons shall have the same meaning as that set out in Section 251 in The Income Tax Act (Canada);

4.0 REQUIREMENT TO PROVIDE INFORMATION

4.1 The Company may be required to provide the Corporation, upon request, information on initiative outcomes, such as staffing and income or productivity levels for a period of three years from completion date of the Project. The Company agrees to provide the requested information, which will be used by the Corporation to measure the success of the program.

5.0 OTHER GOVERNMENT ASSISTANCE

5.1 The Company will inform the Corporation promptly, in writing, of any further Federal, Provincial, or Municipal labour related assistance to be received for the Project. The Corporation shall have the right to adjust the amount of the Rebate to take into account the amount of any such further assistance that is to be received.


6.0 ADDITIONAL CONDITIONS

6.1 In addition to the foregoing, the Company agrees to the following conditions:

- (a) To commence work on the Project on or after December 1, 2011.
- (b) To complete the Project not later than November 30, 2013.



Virgin Gaming
September 23, 2011
Page 8 of 11

- If more time is required to complete the Project, the Company must provide details in writing and request an extension. Failure to do so may result in this Agreement being withdrawn.
- (c) Release of information relating to the funding of this Project may be made under the terms and conditions of this Agreement. No initial announcements with regard to this funding may be made by the Company or the Corporation without written approval of the other party;
 - (d) Not to alter the scope of the Project without the prior written approval of the Corporation;
 - (e) To permit any authorized representative of the Corporation reasonable access to the Company's premises to inspect and assess the progress and results of the Project;
 - (f) To preserve and keep available for audit the books, accounts and records of the costs of the Project for 36 months after the completion of the Project and supply such statistical data as may be required by the Corporation;
 - (g) To obtain all necessary environmental clearance certificates, building permits, licenses, etc., as required by applicable Federal, Provincial, and Municipal regulatory bodies and agencies as, as well, obtain a signed, written lease agreement for the real property if being leased;
 - (h) That good standing be maintained with Consumer, Corporate & Insurance Services Division of the office of the Attorney General during the lifetime of the Project;
 - (i) That the Company and the Corporation shall indemnify and save each party harmless from all claims, demands, actions and causes of action of third parties that may arise out of this Project;
 - (j) No member of the Legislative Assembly shall be admitted to any part, or share of this Agreement or to any benefits to arise there from;
 - (k) To further assist in economic development in P.E.I., the Company shall purchase all capital and operating materials, supplies, and services from local P.E.I. firms providing such firms are able to provide same at competitive costs and provide equal quality and service;
 - (l) Should the Company fail to abide by any of the conditions under this Agreement, the Corporation may require that the Rebate be repaid on demand and any unpaid amounts pursuant to this Agreement may be revoked.
- 

Virgin Gaming
September 23, 2011
Page 7 of 11

7.0 JURISDICTION

7.1 The laws of the Province of Prince Edward Island, Canada, govern the provisions of this Agreement.

8.0 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

8.1 Information contained in and collected in relation to this Agreement is subject to, and will be treated in accordance with, the Prince Edward Island Freedom of Information and Protection of Privacy Act. The amount of the grant may be disclosed at the discretion of the Corporation and in accordance with the Freedom of Information and Protection of Privacy Act R.S.P.E.I. 1988, Cap. F-15.01. For additional information see <http://www.gov.pe.ca/foi/pp>.

9.0 NOTICE

9.1 Any notice or correspondence to the Corporation, including all inquiries with respect to this Agreement should be directed to:

Mr. Brad Mix
Senior Director, Prospecting & Innovation Programs
Innovation PEI
PO Box 910
Charlottetown, PE C1A 7L9
Phone: (902) 368-6957 Fax: (902) 368-6301
Email: bdmk@gov.pe.ca

10.0 ENTIRE CONTRACT

10.1 This Agreement, the Application, and Schedules constitute the entire agreement between the parties with respect to its subject matter.

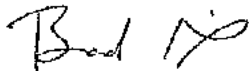
10.2 The Company will note that at the bottom of this Agreement there is an acknowledgement and approval to be signed by the principal(s) of the Company. If it is the Company's intention to accept this offer under the terms outlined, please have this signed, witnessed, and return one original to the Corporation by **October 10, 2011**.



Virgin Gaming
September 23, 2011
Page 8 of 11

We are looking forward to the successful completion of this Project.

Sincerely,



Brad Mix
Senior Director
Prospecting and Innovation Programs

The undersigned, Intertaltech Corporation o/a Virgin Gaming, does hereby accept this offer and agrees to all of the terms contained herein.

Dated the day of *June* , 2011.

Signed and delivered in the presence of:


Witness

Intertaltech Corporation
o/a Virg Gaming

Per:  *Har*

Per: _____



Virgo Gaming
September 28, 2011
Page 10 of 11

SCHEDULE II

ESTIMATED ELIGIBLE LABOUR EXPENDITURES:

Maximum Eligible Labour Expenditures are \$1,312,500 with a maximum Innovation & Development Labour Rebate of \$492,188 available. The current calculation is based on the positions detailed below:

Eligible Positions:

35 Customer Service Representatives

Ineligible Positions/Departments:

As identified within clause 1.4 and all sub-clauses of 1.4.



From: Melissa MacEachern
To: Pam Gorgeatt, Ron Ryder, Allen Roach, Brad Mix
CC: Steve Thain
Date: 2011-11-15 4:00 PM
Subject: Re: Fwd: Signed Agreements

Excellent news.

Melissa A. MacEachern
Deputy Minister
Department of Tourism and Culture
Province of Prince Edward Island
902-368-5956
www.gentloisland.com
mamaceachern@gov.pe.ca

-----Original Message-----

From: Brad Mix
To: Allen Roach <afroach@gov.pe.ca>
Ron Ryder <RRRYDER@gov.pe.ca>
Pam Gorgeatt <PDGORVEATT@gov.pe.ca>
CC: Melissa MacEachern <mamaceachern@gov.pe.ca>
Steve Thain <SETHAIN@gov.pe.ca>
Creation Date: 11/15 3:54 pm
Subject: Fwd: Signed Agreements

Hi Ron,

We have another announcement to plan with a company called Virgin Gaming who will be expanding to the Province. Nancy and I will put together the briefing notes.

Thanks,
Brad

THIS AGREEMENT made as of the 12th day of July, 2011.

BETWEEN:

INNOVATION PEI, a body corporate, duly incorporated by special act of the Prince Edward Island Legislature, with head office in Charlottetown, in Queens County, Province of Prince Edward Island

(hereafter "Innovation PEI")

OF THE FIRST PART;

AND:

INTERTECH CORPORATION O/A VIRGIN GAMING, a body corporate, duly incorporated under the laws of Ontario, Canada, with an office at 720 King St. West, Suite 820, in Toronto, Province of Ontario

(hereafter the "Company")

OF THE SECOND PART;

AND:

GOVERNMENT OF PRINCE EDWARD ISLAND, as represented by the Minister of Innovation and Advanced Learning and the Provincial Treasurer

(hereafter "Government")

OF THE THIRD PART.

WHEREAS the Company has satisfied Innovation PEI and the Government that it has established or will establish customer service operations for Virgin Gaming, a convergence of video games, social networking and competitive online gaming, in Prince Edward Island and, as a consequence thereof, will be offered rebates in respect of provincial corporate income taxes;



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AND WHEREAS the Government has determined that all tax contracts to be made with companies will require the joint signatures of the Minister of Innovation and Advanced Learning together with the Provincial Treasurer;

AND WHEREAS on July 6, 2011, the Government approved measures whereby the Company, upon establishment of a business in Prince Edward Island, is eligible by way of tax contract made with Innovation PEI for rebates of provincial corporate income taxes paid under the Income Tax Act, R.S.P.E.I. 1988, Cap. I-1, as such taxes relate to their business operations located in Prince Edward Island;

AND WHEREAS the Company wishes to enter into a tax contract with Innovation PEI and the Government in relation to the Company's business operations in Prince Edward Island;

NOW THEREFORE in consideration of the premises and of the mutual covenants and promises set forth herein, and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the parties from each other), the parties hereto agree as follows:

1. Objective


- 1.01 The parties agree that the objective of this Agreement is to enable the Company to obtain, during each year of the term as herein defined, a grant of all corporate income taxes paid to the Provincial Treasurer on Eligible PEI Activities ("EPA") profits earned by the Company from operations conducted from its permanent establishment located in Prince Edward Island.
- 1.02 In this contract, the 'Active Business Income' ("ABI") under the Income Tax Act (Canada) is being used solely for determining the appropriate refund percentage of taxes paid to the Province of Prince Edward Island and should not be construed to mean that all active income as defined under the Income Tax Act (Canada) qualify for this grant.

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2. Definitions**2.01 In this Agreement:**

- (a) Subject to paragraph 4.01, Eligible PEI Activities ("EPA") means the research, development, manufacture, marketing, sale, licensing or support of online gaming platforms and the related competitions, participant registrations, and related consumable products for export sales to be carried out from a permanent establishment located in Prince Edward Island.
- (b) "Term" means the period commencing January 1, ^{and ending on} December 31, 2021. *MA Kes* *MA Kes*
- (c) "Income Tax Act" (Canada) means the Income Tax Act (Canada) as amended from time to time.
- (d) "Regulations" means the Income Tax Regulations as amended from time to time under the Income Tax Act (Canada).
- (e) "Adjusted Business Income for Canada" ("ABI-Canada") means the Company's Active Business Income as set out in the Income Tax Act, but excluding any capital gain arising on the sale of assets, rental income derived from related corporations, or any income inclusion on the disposition of eligible capital property. For greater certainty, the term "capital gain" shall include the income that results from an election made pursuant to subsection 14(1.01) of the Income Tax Act (Canada).
- (f) "P.E.I. Allocation Percentage" means the percentage that the taxable income earned in Prince Edward Island by the Company is of the total taxable income earned in Canada by the Company as calculated under the Income Tax Act (Canada).
- (g) "Adjusted Business Income for P.E.I." ("ABI-P.E.I.") means the amount determined for the Company by multiplying ABI-Canada by the P.E.I. Allocation Percentage.

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- (h) "Cost of Labour P.E.I." means the salary and wages, direct or indirect, paid or payable during the year to all employees of the Company who are resident on Prince Edward Island.
- (i) "EPA Cost of Labour" means the salary and wages paid or payable during the year to all employees of the Company who are resident on Prince Edward Island and engaged in Eligible PEI Activities in Prince Edward Island. For greater certainty it includes both direct and indirect labour cost, but only includes that proportion of the salary or wages paid to an individual that relates to that individual's involvement with Eligible PEI Activities.
- (j) "Cost of Capital P.E.I." for a year means the amount calculated to be the cost of capital for P.E.I. utilizing the Regulations and following the same format as would be employed to calculate the cost of capital if operations were restricted solely to P.E.I.
- (k) "EPA Cost of Capital for" means that proportion of the Cost of Capital P.E.I. for the year that reflects the extent to which each property included in the calculation thereof was used in Eligible PEI Activities during the year.
- (l) "EPA Labour and Capital Ratio" is the percentage determined when the total of EPA Cost of Labour and EPA Cost of Capital for the Company is divided by the total of Cost of Labour P.E.I. and Cost of Capital P.E.I. The percentage determined cannot exceed 100%.
- (m) "EPA Profits" is the amount determined by multiplying the ABI-P.E.I. by the EPA Labour and Capital Ratio.
- (n) "Taxable Income (P.E.I.)" is the amount determined utilizing the Income Tax Act, R.S.P.E.I. 1988, Cap. 1-1 as amended from time to time, the Regulations thereunder as amended from time to time, the Income Tax Act (Canada) and the Regulations thereunder.
- (o) "P.E.I. Corporate Income Tax Otherwise Payable" is the amount of corporate income tax the Company would be required to pay to the Province of Prince Edward Island as determined utilizing the Income Tax
- 

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Act, R.S.P.E.I. 1988, Cap. 1-1 as amended from time to time, the Regulations thereunder as amended from time to time, the Income Tax Act (Canada), and the Regulations thereunder.

- (p) "Grant Percentage" means the percentage determined by dividing EPA Profits by Taxable Income (P.E.I.), which cannot exceed 100%.
- (q) "Tax Grant" means the amount determined by multiplying the P.E.I. Corporate Income Tax Otherwise Payable by the Grant Percentage.
- (r) "Tax Refund" means the amount determined by multiplying the amount of any P.E.I. Corporate Income Tax Otherwise Payable that subsequently is refunded to the Company by assessments or reassessments issued by Canada Revenue Agency by the Grant Percentage for the year to which the refund relates.
- (s) "Prescribed Rate" means the prescribed interest rates defined in Regulation 4301 of the Income Tax Act, as amended from time to time, and for the purposes of this agreement any reference in the Regulation to the Minister of National Revenue or the Receiver General for Canada shall be deemed to be a reference to Innovation PEI.

3. Provincial Corporate Income Tax Grant

- 3.01 For each fiscal year ^{pc} Term in which the Cost of Labour P.E.I. meets or exceeds \$350,000.00, Innovation PEI shall pay to the Company the amount determined to be the Tax Grant.
- 3.02 For each year of the Term, the Company shall pay to Innovation ^{amount} amount determined to be the Tax Refund.
- 3.03 Annually for each year of the Term, commencing on January 1, 2012 and ending on December 31, 2013, utilizing the definitions in this Agreement, the Company shall:
- (a) compute its total number of full time employees in Prince Edward Island;
- (b) compute its annual payroll for employees located in Prince Edward Island;

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- (c) compute its ABI-Canada;
- (d) compute its P.E.I. Allocation Percentage;
- (e) compute its ABI-P.E.I.;
- (f) compute its EPA Cost of Labour;
- (g) compute its Cost of Labour P.E.I.;
- (h) compute its Cost of Capital P.E.I.;
- (i) compute its EPA Cost of Capital;
- (j) compute its EPA Labour and Capital Ratio;
- (k) compute its EPA Profits;
- (l) compute its Taxable Income (P.E.I.);
- (m) compute its P.E.I. Corporate Income Tax Otherwise Payable;
- (n) compute its Grant Percentage; and
- (o) compute its Tax Grant.

3.04 The computations under paragraph 3.03 of this Agreement shall be submitted to Innovation PEI within 6 months of the Company's fiscal year end together with the opinion of the external accountant of the Company that the computations were made in conformity with the provisions of this Agreement.

3.05 Following receipt of a Notice of Assessment from Canada Revenue Agency and the payment to Canada Revenue Agency of any income taxes payable as indicated by the Notice of Assessment, the Company shall submit to Innovation PEI:

- (a) any revisions to the computations under paragraph 3.03 that arose on initial assessment as indicated by the Notice of Assessment;
- (b) a copy of the Notice of Assessment;
- (c) a copy of the Corporate Income Tax Return; and



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(c) proof of payment of P.E.I. Corporate Income Tax Otherwise Payable.

- 3.06 Within 60 days of the receipt of the items in 3.05, Innovation PEI shall pay to the Company the amount of the Tax Grant as confirmed by the documentation submitted under paragraph 3.05.
- 3.07 In the computation of its P.E.I. Corporate Income Tax Otherwise Payable, the Company covenants and agrees to deduct to the extent possible all investment tax credits and permissive deductions it is entitled to under the provisions of the Income Tax Act, R.S.P.E.I. 1988, Cap. 1-1 as amended from time to time.
- 3.08 Within 60 days of the receipt of any corporate income tax refunds, the Company shall compute the Tax Refund and shall submit to Innovation PEI:
- (a) a copy of the Notice of Assessment; and
 - (b) a cheque in payment of the Tax Refund.

Interest at the Prescribed Rate shall be payable by the Company to Innovation PEI on the amount of the Tax Refund after 60 days have expired from the date of the Notice of Assessment in 3.08 (a).

- 3.09 For each year of the Term and for the seven calendar years following the end of the Term, the Company shall submit to Innovation PEI all Notice of Re-Assessments received from Canada Revenue Agency for any year of the Term. In addition, the Company shall designate Innovation PEI as having level one access to the Company's Canada Revenue Agency corporate income tax account. The Company shall execute the business consent form RC59E with an expiry date seventeen years after the commencement of this contract. If the Company, or its successor through amalgamation or wind-up, withdraws consent before the end of that period, the Company will be required to immediately repay to the Corporation any corporate income tax rebates already disbursed under this Agreement.
- 3.10 In the event the Notice of Re-Assessment submitted under paragraph 3.09 shows additional corporate income taxes payable, in addition to the Notice of Re-Assessment, the Company shall submit to Innovation PEI any revisions to the original documentation submitted under 3.03 and 3.05 for the taxation year in

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question together with a revised computation of the Tax Grant for the year in question and proof of payment of any additional P.E.I. Corporate Income Tax Otherwise Payable as a result of the Notice of Re-Assessment.

- 3.11 Within 60 days of the receipt of the documentation under paragraphs 3.09 and 3.10, Innovation PEI shall pay to the Company for the year in question the difference between the Tax Grant or the Tax Refund for the year as calculated following the Re-Assessment and the Tax Grant or the Tax Refund originally calculated under 3.03 and 3.05 for the year in question. Interest at the Prescribed Rate shall be payable by Innovation PEI to the Company on the amount to be paid under this paragraph after 60 days have expired from the date of the receipt of the items in 3.10 by Innovation PEI.
- 3.12 In the event the Notice of Re-Assessment submitted under paragraph 3.09 shows corporate income taxes refundable, in addition to the Notice of Re-Assessment, the Company shall submit to Innovation PEI any revisions to the original documentation submitted under 3.03 and 3.05 for the taxation year in question, a revised computation of the Tax Grant for the year in question together with its cheque payable to Innovation PEI for the difference between the Tax Grant or the Tax Refund as originally calculated and the Tax Grant or the Tax Refund calculated for the year in question following the Re-Assessment. Interest at the Prescribed Rate shall be payable by the Company to Innovation PEI on the amount to be paid under this paragraph after 60 days have expired from the date of the Notice of Re-Assessment.
- 3.13 On or before December 31, of each year beginning in the second year of the Term and ending on December 31 of the seventh calendar year following the end of the Term, the Company shall submit to Innovation PEI the opinion of its external accountant that:
- (a) the Company has submitted all Notice of Assessments and Notice of Re-Assessments received from Canada Revenue Agency to Innovation PEI in relation to any taxation year of the Term; and
 - (b) the revised computations submitted to Innovation PEI under paragraphs 3.05, 3.10 and 3.12 were made in conformity with the provisions of this Agreement.

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(c) The company is in good standing relating to property taxes and revenue taxes.

4. Other

- 4.01 The parties agree that the definition of "Eligible PEI Activities" as it relates to this contract is subject to amendment from time to time during the Term. The parties further agree that Innovation PEI shall have final approval on what activities conducted by the Company in Prince Edward Island are to be considered Eligible PEI Activities. The parties agree to execute amendments to this Agreement at such time or times as the definition of "Eligible PEI Activities" changes, following approval of such change by Innovation PEI.
- 4.02 The parties agree to execute such amendments to this Agreement that are required to ensure that the Agreement continues to meet the objectives set out in Section 1 as a result of, among other things, amendments that may occur to the Income Tax Act, R.S.P.E.I. 1988, Cap. 1-1 and Regulations thereunder, and the Income Tax Act (Canada) and Regulations thereunder.
- 4.03 If the parties cannot agree on amendments that are necessary from time to time to ensure the Agreement continues to meet the objectives set out in 1.01, they agree to submit the matter to a single arbitrator under the Arbitration Act, R.S.P.E.I. 1988, Cap. A-16 and the decision of the single arbitrator as to what amendments are necessary shall be final.
- 4.04 The parties agree that the EPA presently conducted by the Company in Prince Edward Island or as amended under 4.01 will qualify for a ten year contract commencing on January 1, 2012. If during the first year of the Term, no EPA is carried out, this Agreement will be automatically terminated. This contract cannot be assigned by the Company without the express written consent of Innovation PEI. Should the controlling interest in the shares of the Company be sold, this contract will automatically terminate unless Innovation PEI has given its prior written consent to the sale. Innovation PEI shall have the right to terminate this Agreement if the Company makes a general assignment for the benefit of creditors or if a petition in bankruptcy is filed against and consented to by the Company or if the Company is adjudicated bankrupt or becomes insolvent or if a receiver or other custodian (permanent or temporary) is appointed by a court of

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competent jurisdiction or proceedings for a composition with creditors under any federal or provincial laws are constituted by or against the Company or if an execution is levied against its assets and is not satisfied, lifted, vacated or dismissed within Thirty (30) days, or if the assets of the Company are sold after levy thereupon by any Sheriff or other authority duly empowered so to do.

- 4.05 The parties agree that there will be no interest or penalty component included in the Tax Grant to be paid by Innovation PEI to the Company under this Agreement.
- 4.06 The parties agree that there will be no interest component included in the Tax Refunds paid by the Company to Innovation PEI under this Agreement, but once calculated, if the payment of same is late, the amounts shall be subject to interest as herein provided.
- 4.07 For the purposes of 4.06 hereof, interest includes interest paid by the Company on additional income tax resulting from re-assessments, interest paid by the Company on late or deficit instalments of corporate income tax, interest paid by the Company on the unpaid balance of corporate income tax and interest received by the Company on any and all corporate tax refunds, whether arising from re-assessments or overpayments.
- 4.08 The parties agree that the provision of funds for grants to the Company from Innovation PEI is subject to the appropriation of funds for these purposes by the Legislative Assembly, pursuant to section 33 and section 35 of the Financial Administration Act R.S.P.E.I. 1988, Cap. F-9.
- 4.09 For the purposes of paragraph 4.08, Innovation PEI shall determine the annual appropriation amounts for the Company, taking into account any changes to the Company's Eligible PEI Activities over the year previous, and during the term of this Agreement, the amount of any grants, rebates, refunds or tax adjustments allowed the Company over the two years previous, as a result of a reassessment.
- 4.10 (a) The Company shall indemnify and save harmless IPEI, its agents, officers, directors and employees, and the Government of Prince Edward Island, its Ministers, agents, officers and employees from and against all claims, actions, suits, demands, damages, losses, costs or expenses which IPEI

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and the Government or any of them may sustain or incur by reason of the Company's breach of any warranties, representations, covenants or agreements contained in this Agreement.

(b) IPEI and the Government of Prince Edward Island shall indemnify and save harmless the Company, its agents, officers, directors and employees from and against all claims, actions, suits, demands, damages, losses, costs or expenses which the Company may sustain or incur by reason of IPEI's breach of any warranties, representations, covenants or agreements contained in this Agreement.

4.11 The Company shall comply with all Federal and Provincial laws, including, without limitation, all statutes and regulations of the Province of Prince Edward Island relating to income taxes, property taxes and revenue taxes.

4.12 To further assist in economic development in P.E.I., the Company shall purchase all capital and operating materials, supplies, and services from local P.E.I. firms providing such firms are able to provide same at competitive costs and provide equal quality and service;

4.13 Information contained in and collected in relation to this Agreement is subject to, and will be treated in accordance with, the Prince Edward Island Freedom of Information and Protection of Privacy Act. The amount of the grant may be disclosed at the discretion of the Corporation and in accordance with the Freedom of Information and Protection of Privacy Act R.S.P.E.I. 1988, Cap. F-15.01. For additional information see <http://www.gov.pe.ca/foi/pp>.

4.14 Any notice or documents to be given to a party to this Agreement shall be conclusively presumed to be given to such party Ten (10) days following the posting within Canada by prepaid registered post of such notice or matter to be delivered, addressed to the party entitled to such notice or by delivery to such party's address as follows:

Innovation PEI


P.O. Box 910

Charlottetown, PE C1A 7L9



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Interaintech Corporation o/a Virgin Gaming
720 King St. West, Suite 820
Toronto, ON M5V 2T3

- 4.15 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns and shall not be assigned by the Company without the prior written consent of Innovation PEI.
- 4.16 The invalidity of any provision of this Agreement or any covenant herein contained or the failure of any party to carry a valid provision into effect or complain of a breach thereof shall not affect the validity of any other provision or covenant herein and no delay or omission of any of the parties in exercising any right or power accruing upon default in or breach of this Agreement shall impair any such right or power or shall be construed to be an acquiescence therein or a waiver of any such default or breach or of any right or power accruing upon any such default or breach upon any subsequent default or breach of this Agreement.
- 4.17 The parties agree that the Company's accounts, records, invoices, receipts and vouchers shall, at all times, be open to audit and inspection by the authorized representatives of the Government of Prince Edward Island or of Innovation PEI (who may make copies thereof and take extracts therefrom) and the Company shall afford all facilities for such audits and inspections and shall furnish the Government of Prince Edward Island and Innovation PEI and their respective authorized representatives with all such information as it or they may, from time to time, require, with reference to such accounts, records, invoices, receipts and vouchers, but shall preserve and keep the same available for audit and inspections at any time.
- 4.18 This Agreement shall be governed by and construed according to the laws of the Province of Prince Edward Island and no action or proceeding shall be brought to construe or enforce this Agreement except in those courts having jurisdiction in the said Province of Prince Edward Island.
- 4.19 Where the context requires, words in the singular include the plural and vice versa, and words imparting the masculine gender include the feminine and neuter
- 

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genders, and words imparting persons shall include firms and corporations and vice versa.

IN WITNESS WHEREOF the parties hereto have properly executed this Agreement with an effective date of January 1st 2011, on the ___ day of _____, 2011.

[Handwritten signature]

SIGNED, SEALED AND DELIVERED) INNOVATION PEI

in the presence of:)

)

)

)

)

)

Per: *[Handwritten signature]*

Witness) Per: _____

SIGNED, SEALED AND DELIVERED) INTERTECH CORPORATION

in the presence of:)

)

)

)

)

)

Per: *[Handwritten signature]* M. Goshwinia

[Handwritten signature]

Witness) Per: _____

GOVERNMENT OF PRINCE EDWARD ISLAND

[Handwritten mark]

- 14 -

Minister of Innovation and
Advanced Learning

Provincial Treasurer

ad

- 15 -

DATE

BETWEEN:

INNOVATION PEI

OF THE FIRST PART;

AND:

INTERTECH CORPORATION O/A VIRGIN GAMING

OF THE SECOND PART;

AND:

GOVERNMENT OF PRINCE EDWARD ISLAND

OF THE THIRD PART.

AGREEMENT

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Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

August 27, 2019

2019-169 EGTC

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Growth, Tourism and Culture, as follows:

"All records pertaining to Brad Mix's incident report to Information Technology Shared Services (ITTSS) on March 17, 2015"

(Date Range for Record Search: From 3/1/2015 to 9/1/2015)

I am writing to inform you that we are providing access to the records. A copy of the records is attached.

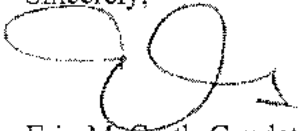
Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erin McGrath-Gaudet', with a stylized flourish at the end.

Erin McGrath-Gaudet
Deputy Minister

Attachment

c: APSO

24

INC-594961 Incident Detail

Affected End User: Ravi, Ravi
 Requester: Status: 3-Closed
 Priority: 3-Medium
 Default Group: Charancharan Location: 54 Euron St
 Floor/Room Number: director of marketing
 Contact Method: Phone
 Active? NO

Incident Area: Service Request-General

Assigned By: Barret, Aaron A
 Group: Charlotte
 Configuration Item: Groupspace Client
 Requester: Impact: Major Incident
 Urgency: 3-Low
 External System Ticket: Caused by Change Order
 Call Back Date/Time: Change

Total Activity Time: 00:40:34

Summary: Missing emails in his GW archive...missing between June 2011 and March 2012

Description: He is trying to find a message from Nov 25, 2011. He has 2 archive files on \\media75\gmatchi-03\dmx. Unable to retrieve to 75-206-05. Renamed file. old archive file (and renamed the current to recent) to allow him to open it in Outlook. Please see EIS to tell to look on the computer or perhaps in the FS drive to see if there is another archive file. Also please try and merge the existing files if practical (5+GB in size each)

Open Date/Time: 03/17/2015 11:02 am
 Last Modified: 03/22/2015 02:22 pm
 Resolve Date/Time: 03/17/2015 02:22 pm
 Close Date/Time: 03/27/2015 02:22 pm

1 - Additional Information

Incident Activity Log List

| Type | Created By / Description | Time Spent |
|--|--------------------------|------------|
| Activity Detected | System_AH0_generated | 00:00:00 |
| Close | System_AH0_generated | 00:00:00 |
| Resolved | Barrett, Aaron A | 00:20:00 |
| Transfer Assigned from " to "Barrett, Aaron A" | Barrett, Aaron A | 00:05:00 |

| | | | |
|---|-------------------|---------------------|----------|
| Update Status | Barnett, Aaron A | 09/17/2015 01:15 pm | 00:05:58 |
| Status changed from 'Open' to 'Work In Progress' | | | |
| Transfer P | Marchbank, Stefan | 09/17/2015 11:34 am | 00:02:50 |
| ES Please assist. | | | |
| Initial | Beck, Roy A | 09/17/2015 11:27 am | 00:01:35 |
| create a new request(includes problem/change/issue) | | | |

Collapse All (5)

202

Brad Mix - Re: Gap in my Sent Archive

From: Carol Mayne
To: Brad Mix
Date: 4/13/2015 10:22 AM
Subject: Re: Gap in my Sent Archive
CC: Edmund Malone; Norman MacDonald

Brad

Thanks for the note. Hope all is well with you.

I have sent your note along to Edmund Malone who is the Director responsible for Business Infrastructure. I am meeting with Norman MacDonald COO this afternoon and will discuss this with him as well. Either Ed or Norman will be back to you on the issue.

Thanks for raising this with us and please feel free to contact me anytime with issues.

Carol

>>> Brad Mix 13/04/2015 9:10 AM >>>

Hello Carol,

I hope everything is going well. I am hoping you may have a way to help me on this. Unfortunately I have a gap in my sent email archive from June 12, 2010 to April 11, 2012 where the sent items no longer exist and are not retrievable. I have checked a couple of times with ITSS and unfortunately they have not been able to help me.

Is there any way to access emails I sent during the time period ?

Let me know when you can.

Thanks,
Brad

203

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Brad Mix
To: Edmund Malone
Date: 4/16/2015 10:14 AM
Subject: Fwd: Re: Gap in my Sent Archive
Attachments: Re: Gap in my Sent Archive

Hello Ed,
Can you call me on this email, my number is 902-368-5957.
Brad

204

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Brad Mix
To: Edmund Malone
Date: 4/20/2015 10:31 AM
Subject: Fwd: Re: Gap in my Sent Archive

Hello Ed,

Can we try this a different way, people that I sent emails too during that time frame still have a record of my email. My inquiry are emails I sent specifically to Wes Sheridan. Can I get a copy of emails that I sent, or cc'ed, to Wes Sheridan during that time frame ?

Call me with questions. Please let me know.
Brad

>>> Edmund Malone 4/16/2015 12:14 PM >>>
Hi Brad;

I am still working on your archive incident and I will get back to you when I have more detail and give you a call.

Thanks Ed



Ed Malone,
Director - Business Infrastructure Services
Emmalone@gov.pe.ca
(902) 368-4111

>>> Brad Mix 4/16/2015 10:14 AM >>>
Hello Ed,
Can you call me on this email, my number is 902-368-5957.
Brad

25





Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

September 25, 2019

2019-204 EGTC

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Growth, Tourism and Culture, as follows:

"All records, in any formats, electronic or otherwise, of Brad Mix which were either sent to - or received from – Edmund Malone or make mention of Norman MacDonald from April 15, 2015 to June 15, 2015."

I am writing to inform you that we are providing you access to four of the five pages of responsive records, a copy of which is attached. A one-page record has been protected from disclosure in its entirety under **subsection 25(1) of the Act**, as it contains solicitor-client privileged information.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

Attachment

c: APSO

26

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Brad Mix
To: Edmund Malone
Date: 4/16/2015 10:14 AM
Subject: Fwd: Re: Gap in my Sent Archive
Attachments: Re: Gap in my Sent Archive

Hello Ed,
Can you call me on this email, my number is 902-368-5957.
Brad

Brad Mix - Re: Gap in my Sent Archive

From: Carol Mayne
To: Brad Mix
Date: 4/13/2015 10:22 AM
Subject: Re: Gap in my Sent Archive
CC: Edmund Malone; Norman MacDonald

Brad

Thanks for the note. Hope all is well with you.

I have sent your note along to Edmund Malone who is the Director responsible for Business Infrastructure. I am meeting with Norman MacDonald COO this afternoon and will discuss this with him as well. Either Ed or Norman will be back to you on the issue.

Thanks for raising this with us and please feel free to contact me anytime with issues.

Carol

>>> Brad Mix 13/04/2015 9:10 AM >>>

Hello Carol,

I hope everything is going well. I am hoping you may have a way to help me on this. Unfortunately I have a gap in my sent email archive from June 12, 2010 to April 11, 2012 where the sent items no longer exist and are not retrievable. I have checked a couple of times with ITSS and unfortunately they have not been able to help me.

Is there any way to access emails I sent during the time period ?

Let me know when you can.

Thanks,
Brad

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Edmund Malone
To: Brad Mix
Date: 4/16/2015 12:14 PM
Subject: Fwd: Re: Gap in my Sent Archive

Hi Brad;

I am still working on your archive incident and I will get back to you when I have more detail and give you a call.

Thanks Ed



Ed Malone,
Director - Business Infrastructure Services
Emmalone@gov.pe.ca
(902) 368-4111

>>> Brad Mix 4/16/2015 10:14 AM >>>

Hello Ed,
Can you call me on this email, my number is 902-368-5957.
Brad

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Brad Mix
To: Edmund Malone
Date: 4/20/2015 10:31 AM
Subject: Fwd: Re: Gap in my Sent Archive

Hello Ed,
Can we try this a different way, people that I sent emails too during that time frame still have a record of my email. My inquiry are emails I sent specifically to Wes Sheridan. Can I get a copy of emails that I sent, or cc'ed, to Wes Sheridan during that time frame ?

Call me with questions. Please let me know.
Brad

>>> Edmund Malone 4/16/2015 12:14 PM >>>
Hi Brad;

I am still working on your archive incident and I will get back to you when I have more detail and give you a call.

Thanks Ed



Ed Malone,
Director - Business Infrastructure Services
Emmalone@gov.pe.ca
(902) 368-4111

>>> Brad Mix 4/16/2015 10:14 AM >>>
Hello Ed,
Can you call me on this email, my number is 902-368-5957.
Brad

SOLCITOR-CLIENT PRIVILEGE

One page is protected pursuant to subsection 25(1) of the *Freedom of Information and Protection of Privacy Act*

27



Department
of Finance

Ministère
des Finances



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

September 27, 2019

FIN 2019-105

Mr. Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

The Department of Finance notified you on September 5, 2019, that it had made a decision to grant access to records you requested for:

"All records, in any formats, electronic or otherwise, of Wes Sheridan which were either sent to - or received from – Chris LeClair, or make mention of Paul Jenkins from May 1, 2011 to November 1, 2011."

I am writing to inform you that we are providing access to the records. A copy of the records is attached.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P.O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Office of the Commissioner with the following information:

- The file number – FIN 2019-105.
- A copy of this letter.
- A copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely yours,



Dan Campbell, CFA
Deputy Minister

c: APSO

28

(8/20/2019) Wes Sheridan - Re: Virgin Gaming

Page 1

From: Brad Mix
To: Paul Jenkins
CC: Allan Campbell; Sandra MacIntyre; Wes Sheridan
Date: 8/9/2011 3:10 PM
Subject: Re: Virgin Gaming

Hi Paul,
 Thanks for the note. Sandra is going to coordinate the meeting with the Ministers, I am going to try to make it back to PEI for the Thursday meeting.

Thanks again,

Brad

>>> Paul Jenkins <jpaul.jenkins@gmail.com> 8/9/2011 2:50 PM >>>
 Thanks Brad

I have confirmed Virgins arrival wednesday late afternoon. Do Minister Campbell and Sheridan have times either separate or together on thursday am to meet?

Sandra can you please let me know

Thanks

Paul J

On Wed, Jun 8, 2011 at 4:06 PM, Brad Mix <bdmix@gov.pe.ca> wrote:

- > Hi Paul,
- > I met with Ministers Campbell and Sheridan today and both are very interested to close the deal with Virgin Gaming. I mentioned to them that Mandeeep and other representatives from the company maybe in PEI next week.
- > Both Ministers are very interested in meeting with them so if they have any time in their schedule it would be great to set up a meeting. Sandra MacIntyre is the best person to arrange a possible meeting time and she can be reached at 388-4230 or email: samacintyre@gov.pe.ca. Unfortunately I will be away next Tuesday and Wednesday but I can help in anyway, please let me know.

> Thanks again,

> Brad

> -----
 > Statement of Confidentiality

- > This message (including attachments) may contain confidential or privileged information intended for a specific individual or organization. If you have received this communication in error, please notify the sender immediately.
- > If you are not the intended recipient, you are not authorized to use, disclose, distribute, copy, print or rely on this email, and should promptly delete this email from your entire computer system.

29



Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

October 15, 2019

2019-096 EGTC

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Growth, Tourism and Culture, as follows:

"All records, in any formats, electronic or otherwise, of Neil Stewart-then CEO of Innovation - which were either sent to - or received from -Brad Mix, or make mention of Patrick Mason or a company called "Tech Markets" from January 1, 2011 to June 1, 2011"

Some of the records you requested contain information that is protected from disclosure under the Act. We have severed the protected information so that we may disclose to you the remaining information in the records. The information is protected from disclosure under the following section(s) of the Act:

- Subsection 15(1), disclosure harmful to personal privacy; and
- Subsection 22(1), advice from officials.

Some other requested records, approximately 19 pages, contain information that, if disclosed, affect the interests of third parties. We have contacted the affected parties, as required under section 28 of the Act, to provide them with an opportunity to consent to disclosure or to make representations objecting to disclosure. We will provide further details regarding third party consultations to you under separate cover.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

Enclosure

c: APSO

30

Neil Stewart - Re: Senior Investment Officer - IT

From: Neil Stewart
To: Mayne, Michael; Mix, Brad
Date: 5/27/2011 4:01 PM
Subject: Re: Senior Investment Officer - IT

I am in favour of this approach but would like someone who could also handle gaming and financial services

Neil Stewart CA
Chief Executive Officer
Innovation PEI
P.O. Box 910
Charlottetown, PEI C1A 7L9
Phone (902) 368-5004 Fax (902) 368-6660

>>> Brad Mix 5/27/2011 3:48 PM >>>

Met with [15.1] a few times since his resignation and it is clear we do need to fill his position sooner than later. Ideally we need someone with 10 plus years experience in a business development role in IT, has a considerable rolodex of out of province contacts, and will instantly gain the respect of our existing clients and staff. Again, I would like to have a competition for this role but use Island Recruiting to go after a handful of candidates.

Let me know your thoughts.

Brad

>>> Michael Mayne 5/13/2011 5:33 PM >>>
Did not know - big loss for us

Did he say why? Will he reconsider?

Let's think carefully about how he can be replaced.

-----Original Message-----

From: Brad Mix
To: Michael Mayne <MBMAYNE@gov.pe.ca >
Neil Stewart <NMSTEWART@gov.pe.ca >
Creation Date: 5/13 5:22 pm
Subject: [15.1]

Neil I think you know this, [15.1] handed me his resignation today and his last last day will be June 17.

[15.1]

[15.1] has done a great job and will be tough to replace. I already spoke to Leah and since the position is technically Scot MacDonald's, she is going to go back to Birt. If I had my choice, I would go to Island Recruiting (Blake Doyle's company) to get us a hired gun.

Brad

Neil Stewart - FMT

From: John Eden
To: Stewart, Neil
Date: 5/16/2011 4:36 PM
Subject: FMT
CC: Mix, Brad
Attachments: Briefing Notes.doc

Neil

this is a company that is part of the secret gaming file ... they are the visa processing guys from the UK.
am attaching a note from them.

are you around at 10 Thursday am to meet with them along with me? I will do a presentation in boardroom.

John

John Eden
Sr Investment Officer
ICT & IM
Innovation PEI
902-368-5775

Neil Stewart - IT platform to connect immigrants with investors

From: Chris LeClair
To: Brad Mix
Date: 3/7/2011 4:08 PM
Subject: IT platform to connect immigrants with investors

Brad, I am not sure who in your shop may have mentioned it, but I heard there is some interest in figuring out a internet platform to help connect immigrants with Island investors. Whoever in IAL-IPEI is looking at this should speak with [15.(1)]..he has done quite a bit of work on a web-based product that might lend itself to this need.

Chris LeClair
Chief of Staff
Office of the Premier
Province of Prince Edward Island
Tel: 902.368.4400
Fax: 902.368.4416

Neil Stewart - Fwd: Fw: PEI Investment Fund Call

From: Brad Mix
To: Neil Stewart
Date: 2/7/2011 1:45 PM
Subject: Fwd: Fw: PEI Investment Fund Call
Attachments: PEI Investment Fund Call

I hope Mickey is treating you well. I understand you maybe answering emails. Any comments about the TB note on the VC co-investment model?

Norman and I are taking a call with Avrio Ventures tomorrow on this.

Thanks,

Brad

>>> Brad Mix 2/2/2011 7:18 PM >>>

FYI, I am on a conference call with Avrio Ventures next Tuesday to discuss the Investment fund. We are continuing discussions with them on how we could make the fund attractive for VC's to invest in PEI based companies. Avrio has been in discussions with 2 companys in PEI.

Let me know when this is going to Treasury Board.

Thanks,

Brad

31



Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

October 22, 2019

2019-103 EGTC

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Growth, Tourism and Culture, as follows:

"All records, in any formats, electronic or otherwise, of Neil Stewart-then CEO of Innovation - which were either sent to - or received from -Chris LeClair, or make mention of Paul Jenkins from January 1, 2011 to June 1, 2011."

Some of the records you requested contain information that is protected from disclosure under the Act. We have severed the protected information so that we may disclose to you the remaining information in the records. The information is protected from disclosure under the following section(s) of the Act:

- Subsection 15(1), disclosure harmful to personal privacy; and
- Subsection 22(1), advice from officials.

Thirty-six (36) pages of records have been protected from disclosure in their entirety under **subsection 25(1) of the Act**, as they contain solicitor-client privileged information.

Some other requested records, approximately 14 pages, contain information that, if disclosed, affect the interests of third parties. We have contacted the affected parties, as required under section 28 of the Act, to provide them with an opportunity to consent to disclosure or to make representations objecting to disclosure. We will provide further details regarding third party consultations to you under separate cover.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a

review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

Enclosure

c: APSO

32

Neil Stewart - Fwd: east isle brief

From: Neil Stewart
To: LeClair, Chris; Mayne, Michael
Date: 4/26/2011 11:15 AM
Subject: Fwd: east isle brief
Attachments: east isle brief

Chris, Michael,

Attached is an east isle brief from January when east isle was still talking expansion

Where we are now is:

- no expansion planned unless a significant order (multiple vessels) was obtained for larger and/or greener tugs
- Irving awaiting news in July of results of National Shipbuilding Purchases. 5 shipyards in Canada are bidding for 2 large projects, 1) military replacement vessels 2) non-military replacement vessels.
- Contingent on Irving's level of success in the bidding, Irving Halifax will need to rebuild a dry dock (sank last year). It is hoped that a combination of work will be obtained for PEI possibly including a) doing work on current Halifax projects in Georgetown while dry dock is rebuilt, b) building components for military or non-military ships being built in Halifax, c) future tug work

Talking points to follow

Neil Stewart CA
Chief Executive Officer
Innovation PEI
P.O. Box 910
Charlottetown, PEI C1A 7L9
Phone (902) 368-5804 Fax (902) 368-6660

Page 014 of 111

withheld pursuant to section
sont retenues en vertu de l'article

22.(1)(g)

of the Freedom of Information and Protection of Privacy Act

From: Neil Stewart
To: Chris LeClair
Date: 4/19/2011 11:53 PM
Subject: Re: A couple of things

[Redacted] 22.(1)(a)

[Redacted] 22.(1)(a)

-----Original Message-----

From: Chris LeClair
To: Neil Stewart <NMSTEWART@gov.pe.ca>
Creation Date: 4/19 11:48 pm
Subject: Re: A couple of things

what about [Redacted] 22.(1)(a)

[Redacted] 22.(1)(a)

[Redacted] 22.(1)(a)

>>> Neil Stewart 04/19/11 8:38 PM >>>

[Redacted] 22.(1)(a); 22.(1)(b)

[Redacted] 22.(1)(a)

-----Original Message-----

From: Chris LeClair
To: Neil Stewart
Creation Date: 4/19 8:14 pm
Subject: A couple of things

Neil, any news [Redacted] 22.(1)(a)

Also, what is the story with [Redacted] 22.(1)(a)

33



Department of Finance

Ministère des Finances



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

October 22, 2019

FIN 2019-106

Mr. Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

The Department of Finance notified you on September 24, 2019, that it had made a decision to grant access to records you requested for:

"All records, in any formats, electronic or otherwise, of Wes Sheridan which were either sent to - or received from - Neil Stewart, or make mention of Brad Mix from June 1, 2011 to December 1, 2011."

Some of the records you requested contain information that is protected from disclosure under the Act (the "excepted information"). We have severed the excepted information so that we may disclose to you the remaining information in the records. The excepted information is protected from disclosure under Section 22(1)(a), (b), and (g) of the Act advice from officials. The protected information includes consultations and deliberations involving employees of a public body; positions, plans developed for the purpose of contractual or other negotiations; and/or, advice, proposals and/or recommendations developed by or for the public body.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P.O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Office of the Commissioner with the following information:

- The file number – FIN 2019-106.
- A copy of this letter.
- A copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely yours,



Dan Campbell, CFA
Deputy Minister

Attachment
c: APSO

34

(8/20/2019) Wes Sheridan - Virgin Gaming

Page 1

From: Brad Mix
To: jpaul.jenkins@gmail.com
CC: Allan Campbell; Sandra Macintyre; Wes Sheridan
Date: 6/8/2011 4:56 PM
Subject: Virgin Gaming

Hi Paul,

I met with Ministers Campbell and Sheridan today and both are very interested to close the deal with Virgin Gaming. I mentioned to them that Mandsep and other representatives from the company maybe in PEI next week. Both Ministers are very interested in meeting with them so if they have any time in their schedule it would be great to set up a meeting. Sandra Macintyre is the best person to arrange a possible meeting time and she can be reached at 868-4290 or email semacintyre@gov.pe.ca. Unfortunately I will be away next Tuesday and Wednesday but if I can help in anyway, please let me know.

Thanks again,

Brad

[8/20/2019] Wes Sheridan - Re: Virgin Gaming

From: Brad Mix
To: Paul Jenkins
CC: Allan Campbell; Sandra MacIntyre; Wes Sheridan
Date: 6/9/2011 3:10 PM
Subject: Re: Virgin Gaming

Hi Paul,
 Thanks for the note. Sandra is going to coordinate the meeting with the Ministers, I am going to try to make it back to PEI for the Thursday meeting.

Thanks again,

Brad

>>> Paul Jenkins <jpaul.jenkins@gmail.com> 6/9/2011 2:50 PM >>>
 Thanks Brad

I have confirmed Virgins arrival wednesday late afternoon, Do Minister Campbell and Sheridan have times either separate or together on thursday am to meet?

Sandra can you please let me know

thanks

Paul J

On Wed, Jun 8, 2011 at 4:56 PM, Brad Mix <bdmix@gov.pe.ca> wrote:

> Hi Paul,
 > I met with Ministers Campbell and Sheridan today and both are very interested to close the deal with Virgin Gaming. I mentioned to them that
 > Mandeep and other representatives from the company maybe in PEI next week.
 > Both Ministers are very interested in meeting with them so if they have any
 > time in their schedule it would be great to set up a meeting. Sandra
 > MacIntyre is the best person to arrange a possible meeting time and she can
 > be reached at 368-4230 or email samacintyre@gov.pe.ca. Unfortunately I
 > will be away next Tuesday and Wednesday but if I can help in anyway, please
 > let me know.

>
 > Thanks again,

>
 > Brad

>

>

>

> -----
 > Statement of Confidentiality
 > This message (including attachments) may contain confidential or privileged
 > information intended for a specific individual or organization. If you have
 > received this communication in error, please notify the sender immediately.
 > If you are not the intended recipient, you are not authorized to use,
 > disclose, distribute, copy, print or rely on this email, and should promptly
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 >

(8/20/2019) Wes Sheridan - Re: Virgin Gaming

Page 2

>
>
>

Downtown Walk In Clinic Open
Everyday check peiclinic.com

Keep Healthy by Hiking or Biking
at the Beck Trail. becktrail.com

(8/20/2019) Wes Sheridan - Meeting with John Lockbaum - RBC Dexia Page 1

From: Brad Mix
To: Wes Sheridan
CC: Allan Campbell; Michael Mayo; Nell Stewart
Date: 7/11/2011 5:36 PM
Subject: Meeting with John Lockbaum - RBC Dexia

Hi Minister,
I understand that you may be going next Friday morning with John Lockbaum from RBC Dexia. Please see below some background information. John is the Managing Director for the Canadian operation and I met with him about 2 weeks ago in Toronto. As per our conversation, 22.(1)(a); 22.(1)(a)

22.(1)(a); 22.(1)(g)

If you have any questions, please let me know.

Brad

(8/20/2019) Wes Sheridan - Re: Update

From: Brad Mix
To: Chris LeClair
CC: Neil Stewart, Allan Campbell, Wes Sheridan
Date: 7/14/2011 8:58 PM
Subject: Re: Update

Hi Chris,
Regarding Virgin, we are putting the letter of offer together for the tax program and should send off to them by Monday. The letter had to be totally redone. They are looking for it in order to confirm they are coming to PEI.

Regarding RBC Dexia, we exchanged emails after they received the business case information. Minister Sheridan is golfing with John Lockbourn (my contact at RBC who I met with) tomorrow in Halifax. As long as Minister Sheridan plays client golf, and does not hit too many 300 yard drives, we should be in good shape. I will keep you updated.

Any concerns, let me know.

Brad

-----Original Message-----
From: Chris LeClair
To: Brad Mix <BDMIX@gov.pe.ca>
Creation Date: 7/14 8:27 pm
Subject: Update

Any luck with virgin? Or rbc dexia?

(8/20/2018) Wes Sheridan - Fw: VQ Contract - Signed Document

From: Brad Mix
To: Allan Campbell, Neil Stewart, Wes Sheridan, Chris LeClair
Date: 8/23/2011 9:12 AM
Subject: Fw: VQ Contract - Signed Document
Attachments: FW: VQ Contract - Signed Document

We are waiting for our signed agreements but it looks like they are going ahead.

Wes Sheridan - FW: VQ Contract - Signed Document

From: "Des Lecky" <des.lecky@vision-quest.ca>
To: "Brad Mix" <bdmix@gov.pc.ca>
Date: 8/23/2011 9:01 AM
Subject: FW: VQ Contract - Signed Document

Brad:

We signed the contract with Virgin Gaming. All their equipment arrived on the weekend and we are well along with the install. The base revenue is starting at about \$60K per year but with extra services and options we expect it will be more like \$100K.

Thanks to you and John Eden for all your assistance with this opportunity.

Des

From: Mandeep Saini [mailto:mandeep.saini@virgingaming.com]
Sent: Monday, August 22, 2011 6:35 PM
To: Des Lecky
Subject: RE: VQ Contract - Signed Document

Thanks Des. THIS is great news. I'm looking forward to our partnership!

From: Des Lecky [mailto:des.lecky@vision-quest.ca]
Sent: August-22-11 12:00 PM
To: Mandeep Saini
Subject: RE: VQ Contract - Signed Document

Mandeep:

Attached is the signed document for your records.

All equipment arrived this morning so it is "game on" - excuse the pun.

Des

From: Mandeep Saini [mailto:mandeep.saini@virgingaming.com]
Sent: Friday, August 19, 2011 4:41 PM
To: Des Lecky
Cc: Ijaz A. Ullah
Subject: RE: VQ Contract - Final Version?

Hi Des,

The agreement you sent along was perfect. Please find attached the signed agreement. If you could please execute and return a copy to me that would be greatly appreciated. We look forward to our partnership together.

Thanks

From: Des Lecky [des.lecky@vision-quest.ca]
Sent: August-18-11 10:23 AM
To: Mandeep Saini
Subject: RE: VQ Contract - Final Version?

Mandeep:

I am heading out for the afternoon so I wanted to leave this with you. I am attaching the contract in pdf and Word formats. If you are okay with changes below, let's start the approval process. If you have any questions or concerns, please call me on my cell this pm and we can discuss.

Des
 Desmond J. (Des) Lecky
 Tel: (902) 367-4185; Cell: (902) 367-7124
 Fax: (902) 569-4247
 Email: des.lecky@vision-quest.ca

From: Des Lecky [des.lecky@vision-quest.ca]
Sent: Thursday, August 18, 2011 11:01 AM
To: 'Mandeep Saini'
Subject: RE: VQ Contract - Redlined version - MS

Hi Mandeep,

I am okay with the indemnification clause as you have presented it.

I would just modify the payment terms to be 30 calendar day or 20 business days (basically a month). You modified my 15 business days to be 30 business days. We are billed at the start of the month for services from the Atlantic Technology Centre so that is what we need to pass along to you.

If okay, I will finalize and send to you this morning.

Des

From: Mandeep Saini [mandeep.saini@viralingamhq.com]
Sent: Thursday, August 18, 2011 9:18 AM
To: Des Lecky
Subject: RE: VQ Contract - Redlined version - MS

Hi Des,

To be honest there aren't any specific risks that we're concerned about but i know that my legal team here won't sign off on the agreement without mutual indemnification as there could be some unforeseen event that causes VQ risk. I'm fine with your lawyer revising the language of the clause as long as it still provides mutual indemnification.

Thanks

From: Des Lecky [des.lecky@vision-quest.ca]

discuss with our lawyer. Will get back to you.

Des

From: Mandeep Saini [mailto:mandeep.saini@virgingaming.com]
Sent: Friday, August 12, 2011 12:54 PM
To: Des Lecky
Cc: Ijaz A. Ullah
Subject: VQ Contract - Redlined version - MS

Hi Des,

Please find attached a redlined version of the agreement. The substantial changes were to the following sections:

- Term
- Termination fees
- Indemnification - I need to make it mutual indemnification.

I'd love to discuss the details with you on Monday. Let me know your availability and we can schedule a call.

Thanks

(8/20/2019) Wes Sheridan - Re: Fw: VQ Contract - Signed Document

Page 11

From: Brad Mix
To: Neil Stewart, Wes Sheridan, Allan Campbell, Chris LeClair
Date: 8/24/2011 6:09 AM
Subject: Re: Fw: VQ Contract - Signed Document

The company has projected 30 jobs. We still have not received our agreements back from them and we have to have those before a possible announcement. I will touch base with them again.

-----Original Message-----

From: Chris LeClair
To: Allan Campbell <AVCAMPBELL@gov.pe.ca>
Wes Sheridan <WJSHERIDAN@gov.pe.ca>
Brad Mix <BDMIX@gov.pe.ca>
Neil Stewart <NMSTEWART@gov.pe.ca>
Creation Date: 8/24 5:53 am
Subject: Re: Fw: VQ Contract - Signed Document

Guys, how many jobs are we talking with this company and we should weigh the pros and cons of announcing now, if that is possible versus a later announcement date.?

What does everyone think?

Chris LeClair
Chief of Staff
Office of the Premier
Province of Prince Edward Island
Tel: 902.368.4400
Fax: 902.368.4416

(8/20/2019) Wes Sheridan Fw: Virgin Gaming Is LIVE in PEI

From: Brad Mix
To: Nancy Roberts, Chris LeClair, Allan Campbell, Wes Sheridan, Neil Stewart
Date: 9/15/2011 6:44 PM
Subject: Fw: Virgin Gaming Is LIVE in PEI
Attachments: FW: Virgin Gaming Is LIVE in PEI

We are awaiting for the agreements to be returned but everything appears positive.

(8/20/2019) Wes Sheridan - FW: Virgin Gaming Is LIVE in PEI

From: "Des Lecky" <des.lecky@vision-quest.ca>
To: "Brad Mix" <bdmix@gov.pe.ca>
CC: "Julie Alford" <JEALFORD@gov.pe.ca>
Date: 9/15/2011 4:22 PM
Subject: FW: Virgin Gaming Is LIVE In PEI

FYI. See email below.

Virgin Gaming are live as of this morning, with clients accessing servers located here at the ATC. They had about 1,200 concurrent users this afternoon and expect it to go to 35,000 on September 27th when FIFA 12 is released.

They had a lot of equipment delivery issues with their supplier so we ended up doing all of the racking, configuration and testing with them. It was 16 hour days for a week but they were very happy with the effort and the results.

Thanks for all your assistance in securing this opportunity for us. It is very much appreciated.

Des

Desmond J. (Des) Lecky
 Tel: (902) 367-4185; Cell: (902) 367-7124
 Fax: (902) 569-4247
 Email: des.lecky@vision-quest.ca

-----Original Message-----

From: Ryan Sanders [mailto:ryan.sanders@virgingaming.com]
Sent: Thursday, September 15, 2011 3:24 PM
To: Andy Parkor; Biggley, Joshua; Des Lecky; Scott McGuigan; Dalton Cody
Cc: Jaz A Ullah
Subject: Virgin Gaming Is LIVE in PEI

Hi Guys,

I just thought I would let you know that we successfully went live this morning in our new PEI home. Some highlights:

- We went live roughly around 9am this morning (no major issues thus far)
- We are using ~2Mb/s @ 1200 users currently on-line
- Virtually all traffic is flowing natively to our new ip. (Very few packets are being routed from our old IP)

It is still too early to tell for certain, that there are no major issues, but at this point things are looking quite optimistic.

Ryan

(0/20/2010) Wes Sheridan - Re: Mphasis Update

From: Brad Mix
 To: Doug Clow; Wes Sheridan
 Date: 11/14/2011 3:24 PM
 Subject: Re: Mphasis Update

Hi Deputy,
 Give me a call on this when you get a chance at 5957 and I can further explain the company, the opportunity, and the deal structure.

Thanks,
 Brad

>>> Wes Sheridan 11/11/2011 10:52 AM >>>

Good morning Doug,

Please see Brad's note below, we'll need your input on the company's request. This is a back office IT company based in India that provides support for corporate entities around the globe and are looking for a "near-shore" location to set up shop to handle a new contract with Chase Manhattan Bank. They are hoping to do business with the jurisdiction in which they locate their shop and therefore want to show off their capabilities to our IT folks. We can discuss Monday as to who may be best suited to evaluate their abilities for our needs.

Have a great week and guys,
 Wet in Kensington!! Wes.

-----Original Message-----

From: Brad Mix
 To: Allen Roach <afroach@gov.pe.ca>
 Wes Sheridan <WJSHERIDAN@gov.pe.ca>
 Michael Mayne <MBMAYNE@gov.pe.ca>
 Nell Stewart <NMSTEWART@gov.pe.ca>
 Creation Date: 11/11 10:40 am
 Subject: Mphasis Update

I'll,
 As a follow-up from our meeting yesterday, I got an update from Mphasis. No final decision has been made regarding a near-shore site but the PEI location is looked at as very positive and the offer is attractive. It has been recommended to me that we strongly consider having someone from our IT services Department travel to Bangalore India sometime between November 25 and December 4 to see the Mphasis operation, analyze the capabilities of the company, and identify possible opportunities for PEI.

Minister Sheridan, is there someone in the IT services Department that knows what IT functions currently exist in the Province and then capable of undertaking an analysis of Mphasis IT operations? If this person exists, is it possible to send them to Bangalore as I think this maybe a good way to continue to press the company that PEI is serious and we want their near-shore site.

Let me know your thoughts.

Thanks,
 Brad

(8/20/2019) Wes Sheridan - Meeting Follow-up

From: Brad Mix
To: pwalsh@simplexconsulting.com
CC: Melissa MacEachern; Neil Stewart
BC: Wes Sheridan
Date: 11/24/2011 12:57 PM
Subject: Meeting Follow-up

Hi Philip,

Sorry for the delay in getting back to you after our meeting a couple of weeks ago. There was a lot to digest but the prospect of bringing Simplex to PEI and thereby laying the foundation of what we hope will become a financial transactions hub is truly exciting. We are interested in taking this discussion further. We also note the need for speed.

Innovation PEI is extremely interested in working with Simplex however the transaction that was described is different than our typical programming support for business attraction. Although the structure of the business is not yet finalized, the establishment of a local company in PEI making an investment into Simplex is a structure that is highly recommended. We understand your interest that the local company is able to clearly demonstrate its connection to the PEI Government in order for your large customers to see that the company has a strong and committed partner. You also understand our need for the local company to demonstrate that it has a commitment to supporting growth in the local economy and has local representation on its board.

We are keen to explore the detail around this. To expedite this process, please provide us with a business plan and supporting financials based on your thoughts as to how such a company would look over the next three years.

Also, you mentioned that Simplex is examining the feasibility of a near-shore presence in North America to support your existing customers, including HSBC and RBS. Obviously the possibility that those financial institutions (and others) may decide to 'route' activity through a PEI operation based on your presence here would also be significant. These factors will be closely and positively considered when the application is made.

So as far as next steps are concerned:

1. McInnis-Cooper will contact us on the subject of a suitable corporate structure for a local company to be established. This aspect of our discussions need not take long - you will need to make sure that the organization is transparent enough for your customers to see the ultimate 'shareholder' in the form of government, and we will need to see that the company is 'locally populated'. In the first instance, I would imagine the simpler the better.
2. Simplex will provide Innovation PEI with a business plan which can be

modified to relate to how 'Simplex PEI' might look.

3. Simplex will provide Innovation PEI with additional commentary on how Simplex's presence here could provide further value in the form of job creation by third parties.

4. Innovation PEI / Ministry of Finance will provide a decision as to whether or not it will provide investment funding to the local company.

We noted your desire to execute this transaction quickly and Innovation PEI will work diligently to support your efforts.

We look forward to working on the next steps of this engagement with you.

Sincerely,

Brad Mix
Innovation PEI

Wes Sheridan - Special Project Team Meeting

From: Kiley, Kevin
To: mike.obrien@mcinnescooper.com; gary.scales@mcinnescoopct.com; BDMIX@gov....
Date: 9/20/2011
Time: 8:15 AM - 9:15 AM
Subject: Special Project Team Meeting
Place: McInnes Cooper
Attachments: rfc2445.ics

When: Tuesday, September 20, 2011 8:15 AM-9:15 AM (GMT-04:00) Atlantic Time (Canada).
Where: McInnes Cooper

Note: The GMT offset above does not reflect daylight saving time adjustments.

Wcs Sheridan - Special Project Weekly Team Breakfast Meeting

From: Kiley, Kevin
To: mike.obrien@mcinnescooper.com; gary.scales@mcinnescooper.com; BDMIX@gov...
Date: 11/30/2011
Time: 7:30 AM - 8:30 AM
Subject: Special Project Weekly Team Breakfast Meeting
Place: Charlottetown Hotel
Attachments: rfs2445.ics

When: Occurs every Wednesday effective 16/11/2011 until 28/03/2012 from 7:00 AM to 8:30 AM (UTC-04:00) Atlantic Time (Canada).
Where: Charlottetown Hotel

Note: The GMT offset above does not reflect daylight saving time adjustments.

(8/20/2019) Was Sheridair - Simplex with Innovation + Brad.

Page 1

From:
Date: 6/30/2011
Time: 11:00 AM - 12:00 PM
Subject: Simplex with Innovation + Brad.
Place: McInnis Cooper.

(8/20/2018) Wes Sheridan - Updated: Conference Call With Simplex

Page 1

From: Kiley, Kevin
To: gary.scales@mcinnescooper.com; pwalsh@simplexconsulting.com; BDMIX@gov.p...
Date: 8/23/2011
Time: 12:00 PM - 1:00 PM
Subject: Updated: Conference Call With Simplex
Place: Dial 1-702-589-8300 and when prompted dial the participant code of 323727#
Attachments: rfc2446.ics

Wes Sheridan - Special Project Meeting

From: Riley, Kevin
To: mike.obrich@mcinnescooper.com; gary.scales@mcinnescooper.com; BDMIX@gov...
Date: 10/7/2011
Time: 9:00 AM - 11:00 AM
Subject: Special Project Meeting
Place: McInnes Cooper Boardroom
Attachments: rfc2445.ics

When: Friday, October 07, 2011 9:00 AM-11:00 AM (GMT-04:00) Atlantic Time (Canada).
Where: McInnes Cooper Boardroom

Note: The GMT offset above does not reflect daylight saving time adjustments.

Microsoft Word document

Wes Sheridan - Special Project Weekly Meeting

From: Kiley, Kevin
To: mike.obrien@mcinnescooper.com; gary.scales@mcinnescooper.com; BDMIX@gov...
Date: 10/21/2011
Time: 3:00 PM - 5:00 PM
Subject: Special Project Weekly Meeting
Place: McInnes Cooper Boardroom
Attachments: rfc2445.ics

When: Occurs every Friday effective 10/21/2011 until 5/18/2012 from 3:00 PM to 5:00 PM (GMT-04:00) Atlantic Time (Canada),

Where: McInnes Cooper Boardroom

Wes Shoridan - Special Project Team Meeting

From: Kiley, Kevin
To: mike.obrien@mcinnescooper.com; gaty.seales@mcinnescooper.com; BDMIX@gov...
Date: 10/24/2011
Time: 5:00 PM - 6:30 PM
Subject: Special Project Team Meeting
Place: McInnes Cooper Boardroom
Attachments: rfc7445.ics

When: Monday, October 24, 2011 5:00 PM-6:30 PM (GMT-04:00) Atlantic Time (Canada).
Where: McInnes Cooper Boardroom

Note: The GMT offset above does not reflect daylight saving time adjustments.

Wes Sheridan - Special Project Weekly Meeting

From: Kiley, Kevin
To: mlke.obrien@mcinnescooper.com; gary.scales@mcinnescooper.com; BDMIX@gov...
Date: 11/11/2011
Time: 3:00 PM - 5:00 PM
Subject: Special Project Weekly Meeting
Place: McInnes Cooper Boardroom
Attachments: rfc2445.ics

When: Occurs every Friday effective 10/21/2011 until 5/18/2012 from 3:00 PM to 5:00 PM (GMT-04:00) Atlantic Time (Canada)
Where: McInnes Cooper Boardroom

Wes Sheridan - Special Project Weekly Meeting

From: Kiley, Kevin
To: mike.obrien@mcinnescooper.com; gary.scales@mcinnescooper.com; BDMIX@gov...
Date: 11/18/2011
Time: 3:00 PM - 5:00 PM
Subject: Special Project Weekly Meeting
Place: McInnes Cooper Boardroom
Attachments: rfc2445.ics

When: Occurs every Friday effective 10/21/2011 until 5/18/2012 from 3:00 PM to 5:00 PM (GMT-04:00) Atlantic Time (Canada).

Where: McInnes Cooper Boardroom

~~*****~~

Wes Sheridan - Special Project Weekly Meeting

From: Kiley, Kevin
To: mike.obrien@mcinnescooper.com; gary.scales@mcinnescooper.com; BDMIX@gov...
Date: 11/24/2011
Time: 3:30 PM - 5:00 PM
Subject: Special Project Weekly Meeting
Place: McInnes Cooper
Attachments: rfc2445.lcs

When: November 24, 2011 3:30 PM-5:00 PM (UTC-04:00) Atlantic Time (Canada).
Where: McInnes Cooper

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*****~~

This replaces the Wednesday morning meeting this week.

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Department
of Finance

Ministère
des Finances



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

October 24, 2019

FIN 2019-107

Mr. Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

The Department of Finance notified you on October 3, 2019, that it had made a decision to grant access to records you requested for:

"All records, in any formats, electronic or otherwise, of Wes Sheridan which were either sent to - or received from - Chris LeClair, or make mention of Keith Laslop from June 1, 2012 to October 1, 2012."

I am writing to inform you that we are providing access to the records. A copy of the records is attached.

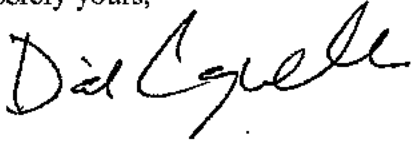
Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P.O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Office of the Commissioner with the following information:

- The file number – FIN 2019-107.
- A copy of this letter.
- A copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dan Campbell". The signature is written in a cursive, flowing style.

Dan Campbell, CFA
Deputy Minister

Attachment

c: APSO

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Wes Sheridan - Re: letter from Keith laslop

From: Wes Sheridan
To: Chris LeClair
Date: 9/5/2012 10:30 PM
Subject: Re: letter from Keith laslop

Hey Chris,

Let's address it to me, with cc's to Al Roach and Cheryl Paynter.....that will lead into a conversation between us.

Thanks, Wes.

>>> Chris LeClair <chris@policyintel.ca> 05/09/2012 10:47 AM >>>

Wes, any advice as to whom the letter from Keith Laslop to the province should be directed:

- (1) You as Minister responsible for gaming
- (2) Al Roach as Minister responsible for Innovation and Advanced Learning/Cheryl Paynter?

What do you think?

Chris



Policy Intel is a 501(c)(3) non-profit
organization.

Chris LeClair
Principal
118 Sydney Street, 9th Floor
Charlottetown, PE CIA 1G4

mobile: 902.314.0623
fax: 902.892.3300
www.policyintel.ca

Wes Sheridan - RE: Letter re: payment processing in PEI

From: "Keith Laslop" <keith@laslop.co.uk>
To: WISHERIDAN@gov.pe.ca
Date: 10/1/2012 10:35 PM
Subject: RE: Letter re: payment processing in PEI

Wes – I'm heading to Spain in the next couple weeks – any chance you were planning to go to EIG in Barcelona? If so would love to catch up.

If you're not attending, but there is anything Newcourt can do to progress things in PEI (the feedback we've received from potential customers has been overwhelmingly positive – high demand for this solution) just let me know.

Kind regards

Keith – [416 873 1847](tel:4168731847)

From: Wes Sheridan [wsheridan@gov.pe.ca]
Sent: Thursday, September 06, 2012 5:16 PM
To: Keith Laslop
Subject: FW: Letter re: payment processing in PEI

Got it Keith!!
 Thank you very much.....
 Wes.

>>> "Keith Laslop" <keith@laslop.com> 9/6/2012 1:08 PM >>>
 First one bounced back as undeliverable – trying again.

k

From: Keith Laslop [keith@laslop.co.uk]
Sent: Thursday, September 06, 2012 12:00 PM
To: 'wsheridan@gov.pe.ca'
Subject: Letter re: payment processing in PEI

Mr. Sheridan – please find the attached letter with our proposal to the government of Prince Edward Island.

Kind regards
 Keith

Statement of Confidentiality

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Department of Finance

Ministère des Finances

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Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

October 30, 2019

FIN 2019-106

Mr. Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

The Department of Finance provided you records on October 24, 2019, related to your request for:

"All records, in any formats, electronic or otherwise, of Wes Sheridan which were either sent to - or received from - Neil Stewart, or make mention of Brad Mix from June 1, 2011 to December 1, 2011."

As a result of a search conducted in another similar request under the Act, the attached page was located. It appears that it is responsive to your request. As such, it is being provided to you in full.

As your request is under review by the Office of the Information and Privacy Commissioner, the OIPC is being advised of the additional record.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely yours,

Dan Campbell, CFA
Deputy Minister

Attachment

c: OIPC
APSO

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39



Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

November 7, 2019

2019-088 EGTC

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Growth, Tourism and Culture, as follows:

"All records, in any formats, electronic or otherwise, of Brad Mix which were either sent to - or received from - Laura Burns of HMC Global, or make mention of a conference called 'SIBOS', from May 1, 2012 to December 1, 2012."

Pursuant to the consent order signed by the Information and Privacy Commissioner on October 9, 2019, the Department of Economic Growth, Tourism and Culture is to provide you with a response to your access request on or before November 8, 2019.

The records responsive to your request, approximately 187 pages in total, contain information that affect the interests of third parties. After expending efforts to secure the appropriate contacts, we notified the affected third parties in writing on October 30, 2019, as required under section 28 of the Act. The third parties have 20 days to consent to disclosure or to make representations objecting to disclosure.

Subject to pending representations of third parties, the Department of Economic Growth, Tourism and Culture intends to provide you with access to the records, subject to limited and specific exceptions permitted under the Act.

In accordance with section 29 of the Act, written notice of the decision on access to the records will be issued to the third parties on November 20, 2019 (or sooner if a response is received), and third parties who have not consented to disclosure will have twenty (20) days to request a review.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

c: APSO

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40. Identified as Consent Order/Court Order - 187 pages blocked as they contain information that affect the interest of third parties.

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From: Mary-Lynn Smith <marylynnsmith@gov.pe.ca>
Date: February 4, 2019 at 11:13:34 AM AST
To: paulmaines@icloud.com
Subject: Requests for Access to Information #2019-008 EDT to 2019-014 EDT

Good morning Mr. Maines,

Thank you for taking the time to discuss your access requests with me last Thursday, January 31, 2019. The following is a brief summary of our conversation.

I contacted you to share my concerns about *five of the seven requests you submitted January 24, 2019*, which do not contain a subject matter and ask for correspondence between two or more named individuals. While names can be searched within GroupWise for e-mails and within electronic directories, physical files are classified under subject matter and not necessarily by names of individuals. I questioned the reasonableness of conducting a search of physical files in cabinets under these circumstances. You were not willing to change the wording of your requests, sharing with me that past experience in making adjustments to the wording on the recommendation of a public body have resulted in unsatisfactory responses. You wished to proceed with your requests as worded, suggesting that the resulting responses will dictate whether additional requests will be made at a later date.

Please confirm the accuracy of this summary, provide clarification on any of the points above, if necessary, and include any additional points I may have missed that you wish to have on record.

I have notified the public body of each of the seven requests and have asked that a search for responsive records be initiated. Due to the number of concurrent requests, the public body may require additional time to complete the searches. Should this be the case, you will be notified of any extensions, directly.

Please do not hesitate to contact me, should you wish to discuss this matter further.

Regards,

Mary-Lynn Smith
FOIPP Coordinator
Access and Privacy Services
Justice and Public Safety
Sullivan Building

Telephone: (902) 569-7591

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Economic
Development
and Tourism

Développement
économique
et Tourisme



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

April 10, 2019

2019-009 EDT

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Development and Tourism, as follows:

"All records, in any formats, electronic or otherwise, of Brad Mix [Senior Director Innovation PEI] which were either sent to - or received from - Patrick Mason, or make mention of Patrick Mason. January 1, 2011 to May 1, 2011"

I am writing to inform you that we are providing access to the records. The search for responsive records included an electronic search, as well as a search of the physical file cabinets in the offices of Brad Mix and his assistant. The electronic search, using key words "Mason", "P. Mason", "Pat Mason" and "Patrick Mason", included the following locations:

- GroupWise e-mail accounts of Brad Mix and his assistant (in-box, sent box, archives, appointments and notes);
- shared directory;
- electronic files; and
- commerce database.

A copy of the nine pages of responsive records is attached.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,



David Keedwell
Deputy Minister

Attachment

c: APSO

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From: paul maines <paulmaines@icloud.com>
Date: April 15, 2019 at 4:21:08 PM ADT
To: Karen Rose <karose@gov.pe.ca>
Subject: Access Request 2019-009 EDT

Dear Ms. Rose,

Please accept this email as my request to review. I have attached letter from Public Body and their Responsive Record. In addition, I have attached an email and calendar entry from Brad Mix to Paul Jenkins and Patrick Mason that should have been included at a minimum.

It's hard to imagine that Mr. Mix scheduled meetings with Patrick Mason and signed a contract to pay Mr. Mason \$10,000 for a feasibility study yet there are no responsive records other than the contract alone.

Regards,

Paul Maines

From: Karen Rose <karose@assembly.pe.ca>
Date: April 16, 2019 at 8:29:53 AM ADT
To: paul maines <paulmaines@icloud.com>
Subject: Re: Access Request 2019-009 EDT

Thank you, Mr. Maines, for your request for review. We will contact the public body to advise them today, and send out correspondence requesting their file; our letter to the public body will be copied to you.

Regards,

Karen Rose

Karen A. Rose
Information and Privacy Commissioner
Prince Edward Island
J. Angus MacLean Building
Charlottetown, P.E.I.
www.oipc.pe.ca

From: Brad Mix [bdmix@gov.pe.ca]
Sent: Thursday, February 03, 2011 8:57 AM
Subject: Call with Paul Jenkins and Pat Mason

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Prince Edward Island Île-du-Prince-Édouard

Legislative Assembly

Assemblée législative

Information and
Privacy Commissioner
PO Box 2000, Charlottetown PE
Canada C1A 7N8

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

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April 26, 2019

PRIVATE AND CONFIDENTIAL

David Keedwell , Deputy Minister
Department of Economic Development and Tourism
P.O. Box 2000, Charlottetown, PE
C1A 7N8

Dear Deputy Keedwell:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Development and Tourism
Your File No.: 2019-009
Our File No.: FI-19-286

Thank you for providing our office with a copy of your file 2019-009 which we received on April 24, 2019. We have had an opportunity to review the contents of the file, and am now seeking your submissions.

Adequacy of the Search

One concern raised by the applicant is whether the Public Body conducted an adequate search. Ordinarily we request evidence about the following points:

1. who conducted the search;
2. steps taken by the Public Body to identify and locate records responsive to the Applicant's access request;
3. scope of the search (areas searched);
4. steps taken to identify and locate all possible locations of records responsive to the access request; and
5. reasons the Public Body believes that no more responsive records exist than the ones that have been identified.

The processing file includes information on several points. The processing file indicates that Brad Mix's assistant conducted the search, and that the search included physical file cabinets and electronic records. You advised the Applicant the electronic sites that have been searched, and by which key words these areas were searched.

To identify and locate areas responsive to the Applicant's request, the FOIPP coordinator requested further information about the subject matter to assist the search of physical files which may not be by name of the individual identified in the access request. ITSS also assisted to confirm the search methods. If we have overlooked any other efforts to identify and locate areas responsive to the Applicant's request, please advise.

We ask for further information on the fifth point. Please advise if there are reasons the Public Body believes that no more responsive records exist than the ones that have been identified.

In his application for review, the Applicant raises 3 potential responsive records. We request that you address each.

1. The Applicant provided a copy of an email dated March 4, 2011 from Brad Mix to two individuals [jpaul.jenkins@gmail](mailto:jpaul.jenkins@gmail.com) and patrick@techmarkets.ca.

Please advise if there is an explanation as to why this record was not located. I note that "Mason" does not appear in this record. Please advise if you considered expanding the search terms of electronic databases, for example to include "Patrick", or Patrick Mason's email address "Patrick@techmarkets.ca".

2. The Applicant provided a copy of an appointment of Brad Mix dated February 3, 2011 "Call with Paul Jenkins and Pat Mason".

With respect to the appointment entry, please advise whether your Public Body believes this record to be responsive to the Applicant's access request. If not, please explain, and if so, please advise if there is an explanation as to why this record was not located.

3. The Applicant also questions why there is no feasibility study, the subject matter of the contract. Please advise whether your Public Body believes such a record would be responsive to the Applicant's access request. If not, please explain, and if so, please advise if there is an explanation as to why a feasibility study, or related record, was not located.

Privilege

I note that your Record Search Form includes an area related to legal privilege. Please confirm whether any responsive records were determined to be subject to legal privilege.

Submissions

In providing your submissions, please elaborate on your arguments with as much factual information as can reasonably be given. We welcome all submissions you deem relevant. Your submissions should include detailed arguments with supporting evidence, documents, and authorities. You may wish to reference relevant court decisions, past decisions of this office, or decisions made by the Information and Privacy Commissioners in other jurisdictions. Our website (www.oipc.pe.ca)

provides links to various resources that you may also find helpful. If you are referring to a precedent, or other resource that may be located online, you may send the citation, as opposed to sending a copy of the precedent to me.

Please provide your submissions by May 22, 2019. Upon receipt of your submissions, we will be providing a copy to the Applicant, for response. Please draft your submissions with this in mind. If there is information in your submissions which you do not wish the Applicant to see, please advise when submitting, and I will consider your request to sever it. We will give your Public Body an opportunity to reply if the Applicant raises any new issues.

Our office will keep the parties updated regarding the status of this review as it progresses. We expect this process will take us into the summer of 2019. At that time, we will advise both parties as to when they may expect an Order in this review.

Sincerely yours,



Karen A. Rose
Information and Privacy Commissioner

c: FOIPP Coordinator, APSO
Applicant ✓

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Economic Growth,
Tourism and
Culture

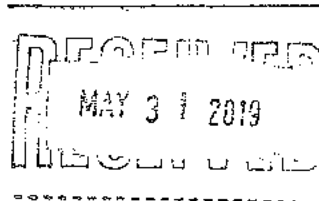
Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

May 29, 2019



Karen A. Rose,
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
P. O. Box 2000
Charlottetown, PE C1A 7N8

Dear Commissioner Rose:

Re: Review under the *Freedom of Information and Protection of Privacy Act (the "Act")*
Public Body: Economic Growth, Tourism and Culture (formerly: Economic Development and
Tourism)
Ref. No.: 2019-09
Your File No.: FI-19-286

The following is the Public Body's response to your letter dated April 26, 2019.

Search Efforts

In letter, you outlined the information provided to you concerning the Public Body's efforts in conducting the initial search for the above reference access request (the "access request").

Part of the information provided to you included a copy of the Record Search Form dated February 15, 2019. The Public Body has reviewed this form with Brad Mix who advises that he was involved in the search process and that his assistant, Pam Gorveatt, was the person who primarily conducted the initial search.

Please note that in preparation of this response, the Public Body determined and wishes to advise you that there were a couple of inadvertent omissions from the form, namely:

- The fact that the electronic search also included the search term "techmarkets"; and,
- The fact that Brad Mix's directory for his office computer was also searched as part of the electronic search.

The Public Body apologizes for this omission.

Responses to Specific Questions

In your April 26, 2019, letter, you asked for explanation as to why an e-mail dated March 4, 2011, from Brad Mix to patrick@techmarkets.ca was not located.

As previously noted in this response, the search did include use of the keyword "techmarkets". The above email was not located. If it had been located, the Public Body does not disagree that it would have been responsive.

As discussed later in this response, the Public Body acknowledges that it had records management issues during the time period contained in the access request. The Public Body is unable to identify the particular reason why this record was not located during the search.

You also asked for an explanation to why an appointment of Brad Mix dated February 3, 2011 was not located. The Public Body acknowledges that if it had been located it would have been responsive to the Applicant's access request. However, the Public Body notes that records confirming meeting times, are considered to be information of short-term value. They are not required to meet statutory obligations or to support and maintain administrative or operational functions. (See 2003-CPRS-TRANSITORY-01). At the time of the search, transitory records of this nature were not (and continue not to be) required to be retained.

Finally, you asked about the feasibility study referred to in the Applicant's request for review. The Public Body states a feasibility study is also known as a value analysis. The analysis for this matter is included in a proposal that does not make mention of Patrick Mason. In fact, the proposal named another individual as the primary contact. Consequently, this record was not responsive to the access request. However, this proposal was identified as responsive to another access request from the Applicant, namely: 2019-14. The record was disclosed to the Applicant as an attachment to the Public Body's decision letter dated May 21, 2019.

Review of Archives

In addition to the three questions addressed above, you have generally asked the Public Body to comment on why it believes no more responsive records exist than what has been identified.

As discussed earlier in this response, the Public Body has not been able to identify a particular reason for the results of the initial search.

It should be noted that in this case, the Public Body decided to review Brad Mix's archives with e-mails/appointments. This review was conducted by my administrative assistant commencing on May 24, 2019. It was completed on May 27, 2019. My assistant used the same keywords that were used for the initial search, including the search term "techmarkets". No records responsive to the access request were located in the archives.

The Public Body notes that it has been highlighted by the Auditor General that records management was an issue for the Public Body during the time period in question (see page 39 as well as Appendix A of the Auditor General's 2016 Report entitled "*Special Assignment: Government Involvement with the E-gaming Initiative and Financial Services Platform*"). In that report, difficulty with management and safeguarding of records was noted, including difficulty with archived records and apparent loss of some electronic data.

At this time, the Public Body is unable to confirm why it has not located additional records during its search for records.

The Public Body Conducted a Reasonable Search

Conducting a reasonable search is a component of a public body's duty to assist an applicant pursuant to section 8 of the Act.

"Under section 8 of FOIP Act, the Public Body is not held to a standard of perfection. I note that all public bodies are held to the same standard, that being one of reasonableness."¹

Subsection 8(1) of the Act states that the "head of a public body must take every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely."²

Notwithstanding the fact that two records provided by the Applicant were not produced, the Public Body states that its search was a reasonable search. To support this position, the Public Body refers you to your reasons for decision in *Order No. F1-15-013*. In that decision, you described how:

- the public body in that case identified the appropriate individuals to be involved in the search,
- the administrative staff conducted the search of electronic and physical locations; and,
- the staff documented the electronic search.

In *Order No. F1-15-013*, you concluded that although the public body in that case did not record the physical locations where responsive records may be found, the Public Body provided sufficient evidence to prove the adequacy of its search.

The process undertaken by the Public Body in the instant case is similar to the one followed by the public body in *Order No. F1-15-013* and the records identified were disclosed to the Applicant.

Privilege

Notwithstanding the Records Search Form completed for the initial search, the Public Body confirms that no records responsive to the access request were determined to be subject to legal privilege. The Public Body made this determination after Ms. Gorveatt organized the records located and completed the Form.

In closing, the Public Body states that it did take reasonable measures to search the records at issue and meet its duty to assist the Applicant. Respectfully, the Public Body submits that a reasonable search was conducted.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

c: APSO

¹ *Re. Office of the Premier (Order No. F1-15-013)*, 2015 CanLII 98414 at p. 18 (PE IPC). Also see *Re. Health PEI (Order No. F1-16-005)*, 2016 CanLII 48837 at para. 38 (PE IPC)

² Also see *Order No. F1-16-005, supra.* at para. 36.

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Prince Edward Island Île-du-Prince-Édouard

Legislative Assembly

Assemblée législative

Information and
Privacy Commissioner
PO Box 2000, Charlottetown PE
Canada C1A 7N8

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

June 4, 2019

PRIVATE AND CONFIDENTIAL

Erin McGrath-Gaudet , Deputy Minister
Department of Economic Growth, Tourism and Culture
P.O. Box 2000,
Charlottetown, PE C1A 7N8

Dear Deputy McGrath-Gaudet:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Growth, Tourism and Culture
Your File No.: 2018-287
Our File No.: FI-19-271

In follow-up to my phone conference with Bobbi-Jo Dow Baker late last week, I am providing further clarification about the information I require relating to your Public Body's reasons for believing that no more responsive records exist than the ones that have been identified.

It is my expectation to be provided with responses to the following questions:

1. How were the archives created? By whom?
When?
2. At the time the archives were created, what policies/procedures were in place relating to retention of email records?
3. If the missing emails were deleted, would this have occurred before or after the creation of the archive?
4. Why are there two archives?
5. In the first archive, please provide possible reasons for finding no emails in the inbox for the time periods June 13, 2010, to March 19, 2012, and in the sent box for the time periods June 12, 2010 to April 11, 2012.

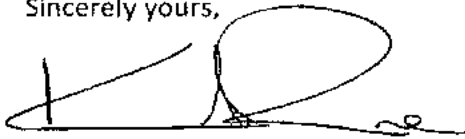
6. Did you interview Brad Mix relating to these missing records? If so, did he provide an explanation for the missing emails? Eg. Did these time periods correspond with a change of position for Mr. Mix, or a period of absence from work?

7. Is it common to find time periods of missing emails in searching archives?

I trust that the above questions will guide you in deciding the most appropriate person(s) with whom I will meet, and who may provide a demonstration of the search for records, and the outcome of the search.

Please respond by June 14, 2019.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'K. Rose', with a large loop at the end.

Karen A. Rose
Information and Privacy Commissioner

c: FOIPP Coordinator, APSO

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Prince Edward Island Île-du-Prince-Édouard

Legislative Assembly

Assemblée législative

Information and
Privacy Commissioner
PO Box 2000, Charlottetown PE
Canada C1A 7N8

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

June 13, 2019

PRIVATE AND CONFIDENTIAL

Paul Maines, President
Capital Markets Technologies
140 Plug Street
Malpeque, PE COB 1M0

Sent via email: paulmaines@icloud.com

Dear Paul Maines:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Development and Tourism
Your File No.: 2019-009
Our File No.: FI-19-286

Further to my letter to the Public Body dated April 26, 2019, and copied to you, please find enclosed the submissions of the Public Body, dated May 29, 2019, received in this office via email on the same date, and by regular mail May 31, 2019.

We ask that you review the representations of the Public Body and provide submissions, if any, by July 5, 2019.

Submissions

In providing your submissions, please elaborate on your arguments with as much factual information as can reasonably be given. We welcome all submissions you deem relevant. Your submissions should include detailed arguments with supporting evidence, documents, and authorities. You may wish to reference relevant court decisions, past decisions of this office, or decisions made by the information and Privacy Commissioners in other jurisdictions. Our website (www.oipc.pe.ca) provides links to various resources that you may also find helpful. If you are referring to a precedent, or other resource that may be located online, you may send the citation, as opposed to sending a copy of the precedent to me.

Upon receipt of your submissions, we will be providing a copy to the Public Body. Please draft your submissions with this in mind. If any new issues are raised, we will be inviting the Public Body to reply.

Our office will keep the parties updated regarding the status of this review as it progresses.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Karen A. Rose', written over a horizontal line.

Karen A. Rose
Information and Privacy Commissioner

c: FOIPP Coordinator, APSO

Enclosure: Submissions of the Public Body dated May 29, 2019 (3 pages)



Economic Growth,
Tourism and
Culture

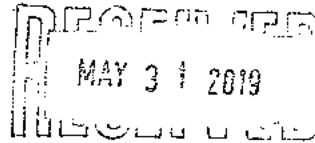
Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

May 29, 2019

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8



Karen A. Rose,
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
P. O. Box 2000
Charlottetown, PE C1A 7N8

Dear Commissioner Rose:

Re: Review under the *Freedom of Information and Protection of Privacy Act (the "Act")*
Public Body: Economic Growth, Tourism and Culture (formerly: Economic Development and Tourism)
Ref. No.: 2019-09
Your File No.: FI-19-286

The following is the Public Body's response to your letter dated April 26, 2019.

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Please note that in preparation of this response, the Public Body determined and wishes to advise you that there were a couple of inadvertent omissions from the form, namely:

- The fact that the electronic search also included the search term "techmarkets"; and,
- The fact that Brad Mix's directory for his office computer was also searched as part of the electronic search.

The Public Body apologizes for this omission.

Responses to Specific Questions

In your April 26, 2019, letter, you asked for explanation as to why an e-mail dated March 4, 2011, from Brad Mix to patrick@techmarkets.ca was not located.

As previously noted in this response, the search did include use of the keyword "techmarkets". The above email was not located. If it had been located, the Public Body does not disagree that it would have been responsive.

As discussed later in this response, the Public Body acknowledges that it had records management issues during the time period contained in the access request. The Public Body is unable to identify the particular reason why this record was not located during the search.

You also asked for an explanation to why an appointment of Brad Mix dated February 3, 2011 was not located. The Public Body acknowledges that if it had been located it would have been responsive to the Applicant's access request. However, the Public Body notes that records confirming meeting times, are considered to be information of short-term value. They are not required to meet statutory obligations or to support and maintain administrative or operational functions. (See 2003-CPRS-TRANSITORY-01). At the time of the search, transitory records of this nature were not (and continue not to be) required to be retained.

Finally, you asked about the feasibility study referred to in the Applicant's request for review. The Public Body states a feasibility study is also known as a value analysis. The analysis for this matter is included in a proposal that does not make mention of Patrick Mason. In fact, the proposal named another individual as the primary contact. Consequently, this record was not responsive to the access request. However, this proposal was identified as responsive to another access request from the Applicant, namely: 2019-14. The record was disclosed to the Applicant as an attachment to the Public Body's decision letter dated May 21, 2019.

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It should be noted that in this case, the Public Body decided to review Brad Mix's archives with e-mails/appointments. This review was conducted by my administrative assistant commencing on May 24, 2019. It was completed on May 27, 2019. My assistant used the same keywords that were used for the initial search, including the search term "techmarkets". No records responsive to the access request were located in the archives.

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At this time, the Public Body is unable to confirm why it has not located additional records during its search for records.

The Public Body Conducted a Reasonable Search

Conducting a reasonable search is a component of a public body's duty to assist an applicant pursuant to section 8 of the Act.

"Under section 8 of FOIPP Act, the Public Body is not held to a standard of perfection. I note that all public bodies are held to the same standard, that being one of reasonableness."¹

Subsection 8(1) of the Act states that the *"head of a public body must take every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely."*²

Notwithstanding the fact that two records provided by the Applicant were not produced, the Public Body states that its search was a reasonable search. To support this position, the Public Body refers you to your reasons for decision in *Order No. F1-15-013*. In that decision, you described how:

- the public body in that case identified the appropriate individuals to be involved in the search,
- the administrative staff conducted the search of electronic and physical locations; and,
- the staff documented the electronic search.

In *Order No. F1-15-013*, you concluded that although the public body in that case did not record the physical locations where responsive records may be found, the Public Body provided sufficient evidence to prove the adequacy of its search.

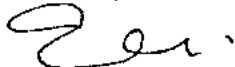
The process undertaken by the Public Body in the instant case is similar to the one followed by the public body in *Order No. F1-15-013* and the records identified were disclosed to the Applicant.

Privilege

Notwithstanding the Records Search Form completed for the initial search, the Public Body confirms that no records responsive to the access request were determined to be subject to legal privilege. The Public Body made this determination after Ms. Gorveatt organized the records located and completed the Form.

In closing, the Public Body states that it did take reasonable measures to search the records at issue and meet its duty to assist the Applicant. Respectfully, the Public Body submits that a reasonable search was conducted.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

c: APSO

¹ *Re. Office of the Premier (Order No. F1-15-013)*, 2015 CanLII 98414 at p. 18 (PE IPC). Also see *Re. Health PEI (Order No. F1-16-005)*, 2016 CanLII 48837 at para. 38 (PE IPC)

² Also see *Order No. F1-16-005, supra.* at para. 36.

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June 17, 2019

Karen A. Rose

Information and Privacy Commissioner

Office of the Information and Privacy Commissioner

PO Box 2000

Charlottetown PE C1A 7N8

File # 2019-009 EDT

Dear Ms. Rose,

I am in receipt of your letter dated June 13, 2019 RE: 2019-009 EDT File No: F1-19-286. Please accept this letter as my submission. Once again, the Public Body continues to stand on the position that records management simply were not a priority for Government at that time. This is completely unacceptable.

Value Analysis vs Feasibility Study

In the Public Body's letter, the department explains the decision not to produce the requested feasibility study, stating the following:

"The Public Body states a feasibility study is also known as a value analysis. The analysis for this matter is included in a proposal that does not make mention of Patrick Mason. In fact the proposal named another individual as the primary contact"

This statement is factually incorrect. The first two (2) pages for the responsive records for FOIPP 2019-014 EDT are talking points and/or working notes titled "Virgin Gaming Operational Value Chain (deduced)" (Appx. A). These bullet points are dated Feb. 16, 2011 in handwriting and appear to be part of the Feasibility Study working notes Mr. Mason was hired to prepare.

2019-014 EDT/ 3 of 25 is the cover page titled "Proposal for Infrastructure Provisioning and Hosting to Virgin Gaming by VisionQuest". The Public Body is correct that this proposal named another contact, but that is because it has absolutely nothing to do with the Feasibility or Value Analysis Mr. Mason was contracted to undertake, which the

shaded square with disclaimer on the cover of the proposal confirms. The disclaimer states the following:

*"Material in this proposal is confidential and proprietary to VisonQuest Inc. It is provided to the client for **the sole purpose of establishing a business relationship between VisonQuest Inc. and the client** [my emphasis]. No part of this document may be used for other purposes or reproduced or used by a third party without the expressed written permission of Vision Quest Inc."*

This was a private proposal and had nothing to do with the PEI Government. This proposal was dated April 19, 2011, which was long after the end of the Feasibility Study contract. This proposal was also only for Virgin Gaming.

The contract signed by Brad Mix and Neil Stewart, the requested Feasibility study I requested, was titled, "Market Intelligence & Claims Processing Feasibility Study".

The Public Body needs to review their own responsive records. I would like to direct you to Page 2 of 9 for File 2019-009 EDT (Appx. B). This is a contract dated the 11th day of February 2011. This contract is signed by Brad Mix and Neil Stewart with Tech Markets Inc. for \$10,000 to complete a feasibility study on three companies; Virgin Gaming, Ethoca and Claimatrix.

In particular Covenant 2.(a):

"Subject to termination clause the term of this agreement shall commence on February 7, 2011 and end on March 31, 2011."

Page 9 of 9 for File 2019-009 EDT is the Tech Markets Inc. invoice for completion of the Feasibility Study dated March 21, 2011.

I am very familiar with VisionQuest, as Brad Mix referred many clients of the PEI Government to VisionQuest local business plan and marketing. In fact, Mr. Mix did the same for Capital Markets Technologies to potentially rebrand Claimatrix. I have an email dated June 02, 2011 (Appx. C) from Brad Mix to Neil Stewart and Richard Cato with the Subject: Claimatrix Rebrand. This is also an email that should have been produced for FOIPP 2019-032, but it was not.

The email states:

"Hi Richard...I have a very good local software development company interested in discussing this with you..."

This local software company was VisionQuest. I will eventually FOIPP for emails with Brad Mix and VisionQuest, however my responses are never dealt with in quick order and won't be available for this submission.

In addition, in the same June 02, 2011 email, Richard Cato wrote to Neil Stewart and Brad Mix the following:

"Gent's...Further to my brief one page summary of potential next steps I am curious to determine your thoughts. Any insight you can provide regarding next steps will be appreciated."

Clearly this verbiage and email chain would indicate that more emails would exist and should have been provided to me as part of my FOIPP request.

This is no longer a question of where are the documents; this has now become a question of WHO DESTROYED THE DOCUMENTS. Plain and simple, the Public Body had a duty to preserve these documents. ITSS is required to keep a schedule of deleted emails and network files, including transitory records, and the legal and administrative requirements regarding the law and policy on record disposition requires that a schedule be completed for all records which the Public Body seeks to dispose of, and that schedule and the records must be forwarded to the PEI Archives and Records office (PARO), including those records which the Public Body believes are transitory. The determination as to whether documents are to be deleted or retained, including transitory records, rests solely and exclusively with PARO. If records I have requested were deleted properly, in accordance with law and policy, there will be a log for those events deleting those records.

The Cover Up

This is not a simple case of a few missing emails but rather part of an elaborate cover-up to erase key documents around e-gaming and all documents that relate to work with Capital Markets Technologies and me.

Patrick Mason was hired to do a feasibility study and part of the study was to be able to produce recruiting packages for the three (3) companies. As mentioned, Claimatrix is the software for Capital Markets Technologies. PEI Government had asked us to create a Canadian owned subsidiary to work with the province and we did. This subsidiary was doing business as Financial Markets Technologies (FMT). At all material times Paul Jenkins was a director of FMT.

On January 30, 2011 Mason emailed Paul Jenkins and me (Appx. E). This email chain has Jenkins stating the following:

"I meant [sic] chris [LeClair] again yesterday over fmt. He has lined up a meeting with Brad Mix. Brad will approve you doing an analysis for fmt. The benefits of moving to PEI...We can go over more on the phone but once I meet Brad Monday then we should be ready to go."

On March 14, 2011 Patrick Mason sent the proposal on behalf of the PEI Government to us (attached) titled "Prince Edward Island Advantages". In this package the PEI Government made us key commitments including:

"FMT stands to gain customers through PEI's heavy investment in attracting companies from the video game, customer support, and financial services sector"

"Being a smaller jurisdiction means you don't get lost in the bureaucracy. All of our employers are important to us. We take a partnership approach and invest in companies beyond our original agreement. We also work with our Federal Government partners to help you access other Federal rebate or incentive programs."

"FMT has "first mover" advantage on PEI where it would be the provider of choice for existing and new customers alike. Of course your local partners would help, and provide whatever support required **ensuring all Island Businesses thrive**"

This document was signed off by Innovation PEI on the last page. This document was tabled in the PEI Legislature and the PEI Government did not deny the package although Mary Moszynski, acting director of communications, told CBC this package was one-of-kind and said management did not review the document.

<https://www.cbc.ca/news/canada/prince-edward-island/p-e-i-tax-avoidance-advice-provided-by-government-1.3325803>

Let's be clear, FOIPPs since 2014 have produced "NO RECORDS FOUND" for emails from Government for the following requests:

- Brad Mix and Paul Jenkins
- Brad Mix and Patrick Mason
- Brad Mix and Chris LeClair
- Brad Mix and Virgin Gaming

This is NOT a simple matter of records not being a priority.

Records Management

The Auditor General's findings were quite clear around Records Management in section 7 of her report. In particular:

7.1 We found that not all government records were being managed and safeguarded **as required legislation and policy**. Requirements of the Archives and Records Act, related to records retention and disposition schedules were not complied with. Therefore, we are not confident that we received all relevant government records related to E-gaming, the loyalty card program, and the establishment of a financial services platform

7.2 Government records are valuable government property. A record is any documentary material regardless of physical form. In other words, a record may exist in any format such as paper, audio recording, videotape and electronic data, including e-mails and text messages. **Appropriate records management is essential for government to demonstrate accountability and transparency**. Legislation and policy clearly outline the importance of protecting government records, the responsibilities and authority of the various parties, and address records management in government.

7.7 We checked for the existence of a retention and disposition schedule for the public bodies related to this assignment and noted that there were no approved retention disposition schedules for the following during our scope period:

- Department of Innovation and Advanced learning;
- Innovation PEI; and
- Department of Tourism and Culture

7.9 We requested from government all documentation relating to E-gaming, the loyalty card program, and the financial services platform. **Through this request, it became evident that some of the public bodies involved in these files were not adhering to the requirements of the Act.** We experienced delays in obtaining some of the required information.

Protecting the Public Interest

8.1 Throughout this report, there is a common theme: inadequate protection of taxpayers' interests. The report highlights instances where legislation, policies and controls were ignored and projects were advanced that were not supported with adequate due diligence. **A number of decisions and actions demonstrated a lack of due regard for transparency and accountability.**

Brad Mix-What's Different

As much as Government has tried to maintain that thousands of emails and other records have been disabled and deleted over the years, this was not normal operating procedure.

<https://www.cbc.ca/news/canada/prince-edward-island/emails-deleted-or-disabled-1.3877586>

The major difference with Brad Mix's email and record destruction is that it can't possibly be dismissed as a "paperwork" oversight. Mix has been in the same position as a senior director for Innovation PEI for over a decade. His records have never been sent to ITSS as part of employee departure policy and protocol. These are not just emails that are missing, these are Government documents that everyone had a duty to preserve.

Statutory Declarations For E-gaming Documents

Another issue which these missing emails brings into play is the Statutory Declarations signed for the AG E-gaming Report. In Public Accounts on Nov. 9, 2016 (page 189) Jane MacAdam went into her Audit Approach for the Report:

"We requested information for the Clerk of Executive Council requesting all government information related to E-gaming, the memorandum of understanding for a financial services platform, and we requested all government records."

We requested that the information be accompanied by a statutory declaration which is basically a certification from the deputy head indicating that all relevant records were searched and all relevant records were provided to my office. It was part of our audit approach."

R v Livingston, 2018 ONCJ 25

Given that Brad Mix is a current Director of Innovation PEI, as he was during all material times, the precedent I recommend is R v Livingston. The parallels are significant with actions of the PEI and Ontario Governments. Documents were destroyed contrary to their respective Records and Archives Acts to avoid disclosures.

The AG made it clear that she was unable to determine how many accounts had emails deleted. In Public Accounts Jan. 11, 2017 (page 2) Jane MacAdam stated:

"I mean, there could be other accounts removed and we didn't get records, but we weren't concerned because we couldn't say that there should or shouldn't be records. We were just looking for relevant records, and based on our knowledge of the file it

didn't seem reasonable that there would be no record for these individuals. In fact, we determined that there were records. They just weren't retained by government because we got them from other sources."

In particular the similarities of two (2) Governments come from Judge Lipson's decision:

[99] This was the grim political backdrop that existed at the time Mr. Livingston sought Mr. Wallace's permission to access multiple computers in the Office of the Premier. Mr. Wallace testified that at the point he was considering whether or not to give Mr. Livingston his permission, "the issues associated with the gas plant disclosure had been front and centre in the Ontario political debate for...over a year." The Secretary described the previous months as a "deeply sad and very difficult time" when "an extraordinarily successful premiership was limping to an end and the issues associated with the... resignation [of the Premier] did revolve around the gas plants and the decision making process associated with those." While his immediate priority in late January, 2013 was to coordinate the transition to a new Premier, the Secretary remained very concerned about the willingness of Mr. Livingston and his OPO colleagues to comply with their record retention obligations.

[159] "The law is clear that, in the right circumstances, a deliberate and material omission can constitute "other fraudulent means" for the purpose of committing fraud, contrary to s. 380 of the Criminal Code. The non-disclosure must be of an important fact. The defendant must know that the fact omitted would be important to the person he is dealing with. As well, the omission must render the course of dealing one that reasonable people would stigmatize as dishonest. In *R. v. Theroux*¹, the Supreme Court of Canada took care to distinguish dishonesty from mere "carelessness", "improvidence", or even "sharp practice".

[174] "The totality of evidence proves beyond a reasonable doubt that he was neither justified nor authorized nor had colour of right to arrange for the wiping of the hard drives of employees of the Office of the Premier, including his own. He was clearly aware of his obligation to retain records with respect to the gas plant issues."

[176] "Mr. Livingston's plan to eliminate sensitive and confidential work-related data, in my view, amounted to a **"scorched earth"** strategy, where information that could be potentially useful to adversaries, both within and outside of the Liberal Party, would be destroyed."

Scorched Earth Strategy

PEI Government did in fact initiate a "Scorched Earth" strategy around E-gaming. Ignoring these nefarious actions will only lead to more of the same for future governments relying on "it simply wasn't a priority" defence. The deletion of all these emails are simply wrong and I believe criminal. The fact that Brad Mix, a senior director of Innovation PEI has an extraordinary amount of missing government records while maintaining the same position in government for over a decade, is a systematic problem.

The FOIPP Act provides you with a broad, government-wide mandate by giving powers and instruction for the Commissioner, under 501(a), to: "...conduct investigations to ensure compliance with any provision of this Act or compliance with rules relating to the destruction of records set out in any other enactment of Prince Edward Island."

I am therefore asking that you make the issue of compliance with PEI laws (FOIPP Act and Archives and Records Act) and compliance on "rules relating to the destruction of records" the focus of my request for a review. There is a disturbing pattern of missing e-gaming records with a number of my access requests and why these records are not being found or produced is still unknown; I'm hoping you can find answers to some of these important questions.

Regards,

Paul Maines

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Prince Edward Island Île-du-Prince-Édouard

Legislative Assembly

Information and
Privacy Commissioner
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Assemblée législative

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

June 20, 2019

PRIVATE AND CONFIDENTIAL

Erin McGrath-Gaudet, Deputy Minister
Department of Economic Growth, Tourism and Culture
P.O. Box 2000,
Charlottetown, PE
C1A 7N8

Dear Deputy McGrath-Gaudet:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Growth, Tourism and Culture
Your File No.: 2019-009
Our File No.: FI-19-286

Further to our letter to your Public Body dated April 26, 2019, in relation to the above-referenced file, please find enclosed the submissions of the Applicant dated June 17, 2019. We ask that you review the submissions and reply to all new issues raised.

The submissions of the Applicant indicate his belief that there has been intentional effort by government to delete records relating to e-gaming, and that your Public Body's response to this access request is evidence of such an effort. In replying to this allegation, I ask that you provide reasonable explanation(s) for the missing records over a specific time period.

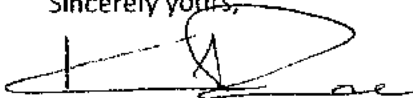
Submissions

In providing your submissions, please elaborate on your arguments with as much factual information as can reasonably be given. We welcome all submissions you deem relevant. Your submissions should include detailed arguments with supporting evidence, documents, and authorities. You may wish to reference relevant court decisions, past decisions of this office, or decisions made by the Information and Privacy Commissioners in other jurisdictions. Our website (www.oipc.pe.ca) provides links to various resources that you may also find helpful. If you are referring to a precedent, or other resource that may be located online, you may send the citation, as opposed to sending a copy of the precedent to us.

Please provide your reply submissions by July 22, 2019. Upon receipt of your submissions, we will be providing a copy to the Applicant, for his information. Please draft your submissions with this in mind. If there is information in your submissions which you do not wish the Applicant to see, please advise when submitting, and I will consider your request to sever it.

Our office will keep the parties updated regarding the status of this review as it progresses. Once submissions are closed, we will advise both parties as to when they may expect an Order in this review.

Sincerely yours,



Karen A. Rose
Information and Privacy Commissioner

Enclosure: Submissions of the Applicant dated June 17, 2019 (8 pages)
Appendix A (3 pages)
Appendix B (2 pages)
Appendix C (2 pages)
Appendix D (2 pages)
Appendix E (36 pages)

c: FOIPP Coordinator, APSO
Applicant

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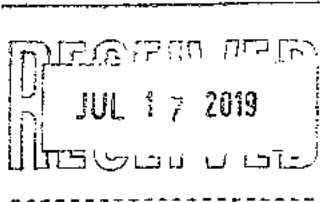
Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



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Canada C1A 7N8



July 15, 2019

Karen A. Rose,
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
P. O. Box 2000
Charlottetown, PE C1A 7N8

Dear Commissioner Rose:

Re: Review under the *Freedom of Information and Protection of Privacy Act* (the "Act")
Public Body: Economic Growth, Tourism and Culture (formerly: Economic Development and Tourism)
Ref. No.: 2018-287
Your File No.: FI-19-271

The following is the Public Body's response to the second question contained in your letter dated June 4, 2019.

The second question was:

- At the times the archives were created, what policies/procedures were in place relating to retention of email records?

Section 5 (Recorded Information Management) of Treasury Board's Policy and Procedure Manual is the applicable records information management policy that has been in place since 1998. As you may be aware, this policy applies to public records (including emails) created by employees for Government departments and crown corporations.

In the Auditor General's 2016 report, she noted that the *Archives and Records Act* indicates that every public body should prepare a schedule for the retention and disposition of records. These schedules are to be approved by the Public Records Committee. At page 40 of the said 2016 report, the Auditor General indicated that the Public Body's predecessor and Innovation PEI had no approved retention and disposition schedules in place in 2013.

In 2014, a file classification plan was developed that included the approval to put in place a retention schedule for Innovation PEI. In 2015, when the other archive was created, there was no approved retention or disposition schedule in place. The Public Body continues to work on addressing this concern.

Notwithstanding the foregoing, the Public Body notes that in the case of Brad Mix's records there is an apparent loss of emails for many files that (in 2015) Mr. Mix believed he had retained but was not able to locate. Mr. Mix continues to be unable to locate said emails. As such, it does not appear that a retention policy or procedure would have impacted this matter in any event.

If you wish to discuss this matter further, please contact the undersigned or the Access and Privacy Services Office.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

c: APSO

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Economic Growth,
Tourism and
Culture

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Culture



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July 25 2019

Karen A. Rose,
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
P. O. Box 2000
Charlottetown, PE C1A 7N8

Dear Commissioner Rose:

Re: Review under the *Freedom of Information and Protection of Privacy Act (the "Act")*
Public Body: Economic Growth, Tourism and Culture (formerly "Economic Development and Tourism")
Ref. No.: 2019-009
Your File No.: FI-19-286

The following is the Public Body's reply to your letter dated June 20, 2019. In your letter, you asked the Public Body to reply to new issues raised by the Applicant in relation to this access request, 2019-009 (this "access request"). You also asked for an explanation related to emails of an employee of the Public Body.

Response to New Issues Raised by Applicant

Please be advised that the Public Body believes that it is not appropriate to respond to all issues raised by the Applicant. This belief arises from the fact that the Applicant's submission:

- presents numerous allegations as fact notwithstanding the fact that there is ongoing and active litigation; and,
- some of the items raised by the Applicant do not relate to this access request. The Public Body is not responding to points raised that relate to other access requests in this reply.

The Public Body will respond to the remaining issues raised to the best of its ability. Please note that any issues raised by the Applicant that relate to emails of the employee subject of this access request will be made in the following section of this reply entitled "Requested Explanation".

In the Applicant's submission, the Applicant makes comments about a portion of the Public Body's submission which reads as follows, namely:

"The Public Body states a feasibility study is also known as a value analysis. The analysis for this matter is included in a proposal that does not make mention of Patrick Mason. In fact, the proposal named another individual as primary contact."

The Applicant contends that it is incorrect to state that a feasibility study is also known as a value analysis. The Applicant further states that the proposal provided with the responsive records for 2019-014 is not the study referred to in the contract that was disclosed as part of the Public Body's response to this access request. The Applicant claims that this contract was signed by the employee in question and Mr. Stewart.

Respectfully, the Public Body is inclined to correct the Applicant's statements. First, the contract disclosed as part of the responsive records to this access request was not signed by Mr. Stewart. It was signed by the employee subject of this access request and witnessed by said employee's administrative assistant.

Second, the above reproduced portion of the Public Body's submission to you is not factually incorrect. The Public Body acknowledges that:

- the company named in the contract disclosed as part of the responsive records for this access request issued an invoice in March 2011;
- this contract referred to the work to be supplied as a "*Market Intelligence & Claims Processing Feasibility Study*" but described the work as an undertaking of a feasibility study and market presentation;
- the proposal disclosed with the responsive records for 2019-14 was dated thereafter; and,
- said proposal was presented to Virgin Gaming (one of three companies named in the said contract) by a company other than the company named in the above noted contract.

However, these facts do not make the Public Body's submission factually incorrect. We have re-reviewed this portion of the Public Body's submission with the employee subject of this access request. He has noted the following:

- In some instances, invoices are issued before final drafts of documents containing the work contracted for are completed (in the instant case, less than a month);
- To clarify, a feasibility study can in some instances, including this instance, be a value analysis when the results of the study are incorporated into another document;
- In the instant case, the work supplied as a result of the contract disclosed with the response to this access request was to be used to attract a business to the Province;
- In order to do that, the work supplied was incorporated into the presentation in the proposal provided with the response to 2019-014;
- A separate document was not required;
- He has no recollection of any separate document entitled "*Market Intelligence & Claims Processing Feasibility Study*".

Finally, the Applicant suggests that the proposal disclosed with the responsive records for 2019-014 has nothing to do with the PEI Government. Given the submissions made by the Public Body and the fact that the proposal was provided as a record of the Public Body responsive to an access request, the suggestion that the proposal had nothing to do with the PEI Government is not a reasonable one.

Requested Explanation

While the Applicant appears to be frustrated by the fact that the Public Body has faced records management challenges, the Applicant's unwillingness to accept this explanation does not justify the serious claims the Applicant has made that relate to an alleged "cover-up". To be clear, the Public Body takes exception to these unsubstantiated claims being made by the Applicant in the context of this access request and other access requests under review.

For example, the Applicant suggests that this matter is similar to a destruction of records matter in another jurisdiction; and, the Applicant alleges that there has been a destruction of records/erasure of emails contrary to law. These submissions are both incorrect and unsubstantiated.

As you are aware, issues with the initial archive of the employee in question was discovered in 2015. There is an apparent loss of emails; but, there is no indication that any intentional destruction of records has occurred. For further information, we refer to the Public Body's letters dated July 10, 2019, and July 15, 2019, that were sent to you in relation to access request 2018-287, your file reference F1-19-271. We understand that these letters have already been provided to the Applicant in relation to other matters under review.

In closing, the Public Body continues to rely on the submissions initially provided to you in its letter dated May 29, 2019. Keeping those submissions and the additional information and clarification provided with this reply in mind, the Public Body submits that it made reasonable efforts to respond to this access request and meets its duties as same relates to searching for records.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

c: APSO

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Prince Edward Island Île-du-Prince-Édouard

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July 26, 2019

PRIVATE AND CONFIDENTIAL

Paul Maines, President
Capital Markets Technologies
140 Plug Street
Malpeque, PE
COB 1M0

Dear Paul Maines:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Growth, Tourism and Culture
PB File Nos.: 2019-011, 2019-009, 2019-014, 2019-032
Our File Nos.: FI-19-284, FI-19-286, FI-19-288, FI-19-289

As you aware, the Public Body has made submissions in three of the above files, and we are awaiting their response relating to file FI-19-286. In the meantime, I would like to advise the parties of the plans of this office, from a procedural perspective.

As all of the above-referenced reviews deal with the issue of adequate search, and missing records relating to one staff person, we have decided to issue one Order relating to all four reviews. Please note that the issue of delay in File FI-19-288 will also be addressed in the Order. In addition, as has recently been pointed out by the Public Body, another review in this office, our File FI-19-271, relates to this same issue, so will be addressed in the Order as well. We will be advising the Applicant in that review, by letter of today's date.

With reference to our File FI-19-271, the Public Body has agreed to provide you with a copy of two response letters which were provided by the Public Body, one dated July 10, 2019, and one dated July 15, 2019. A copy of these letters is enclosed.

I appreciate the Public Body's recent response to questions raised about the missing records. However, I require more information to fully understand some of the response. I wish to interview someone at IT Services who has the expertise and experience to provide more detail. With specific reference to "experience", I wish to gather information from someone who was present at IT services during the dates covered by the access requests, who would therefore be familiar with the experience relating to records management practices relating to emails and email archives during

that time period. As a result, the interview may require more than one staff person from IT Services. I will be contacting the Public Body next week to discuss the particulars.

Our office will keep the parties updated regarding the status of these reviews as they progress. Once we have completed our interview with IT Services, we will provide a summary of information gathered, confirmed by the interviewee(s).

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Karen A. Rose', with a large, stylized loop at the end.

Karen A. Rose
Information and Privacy Commissioner

c: FOIPP Coordinator, APSO

Enclosure: Letters of Public Body dated July 10, 2019 and July 15, 2019



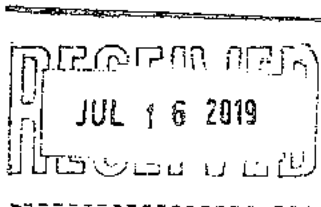
Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
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July 10, 2019



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Karen A. Rose
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
P. O. Box 2000
Charlottetown, PE C1A 7N8

Dear Commissioner Rose:

Re: Review under the *Freedom of Information and Protection of Privacy Act* (the "Act")
Public Body: Economic Growth, Tourism and Culture (formerly: Economic Development and Tourism)
Ref. No.: 2018-287
Your File No.: FI-19-271

The following is the Public Body's written response to the questions posed in your letter dated June 4, 2019.

Please be advised that the Public Body is still finalizing its response to the second question. A supplementary letter will follow as soon as possible.

With the exception of the answer to the sixth question, the answers provided in this response were prepared with the assistance of and/or in consultation with the Acting Director, Business Infrastructure Services, IT Shared Services (ITSS).

It should be confirmed that this matter was also discussed with Brad Mix who participated in the initial search to respond to this access request. As noted in previous correspondence, the search was primarily conducted by Mr. Mix's assistant. The Public Body has learned, as will be explained below, that Mr. Mix's assistant searched one archive as Mr. Mix does not have access to the other archive.

Following the request for review, the former Deputy Minister arranged for Mr. Mix's two archives to be made available to the Deputy Minister's administrative assistant who conducted a second search. The second search by the Deputy Minister's administrative assistant was made possible with the assistance of 2 technicians from ITSS. We wish to clarify that these particular technicians did not search. They only made the two archives accessible to the administrative assistant.

Brad Mix's Archives and the Responsive Records

In your letter, you indicated you wish to receive a response to the following questions:

1. How were the archives created? By whom? When?
2. At the times the archives were created, what policies/procedures were in place relating to retention of email records?
3. If the missing emails were deleted, would this have occurred before or after the creation of the archive?
4. Why are there two archives?
5. In the first archive, please provide possible reasons for finding no emails in the inbox for the time periods June 13, 2010, to March 19, 2012, and in the sent box for the time periods June 12, 2010 to April 11, 2012.
6. Did you interview Brad Mix relating to these missing records? If so, did he provide an explanation for the missing emails? E.g. Did these time periods correspond with a change of position for Mr. Mix, or a period of absence from work?
7. Is it common to find time periods of missing emails in searching archives?

Responses to Questions

With the exception of the second question, the responses to the above listed questions are found below.

- **How were the archives created? By whom? When?**

This question has been discussed with the Acting Director, Business Infrastructure Services, ITSS.

Prior to answering the question, the Acting Director, Business Infrastructure Services provided background concerning the creation of Government's centralized IT support system and archiving for individual government employees. A brief overview of this is set out below.

The current centralized IT support system known as ITSS was formed in 2007. Prior to that time, IT support services were not centralized in government.

Commencing in 2014, a project was undertaken to standardize archiving such that archiving of GroupWise records (including emails) for government employees would be standardized for all departments.

Prior to completion of this project in 2015, government employees could have multiple archives within the network and on the hard drives of their laptops and/or office computers.

Since 2015, government employee archives have become standardized. This means that government employees are not able to copy, create or direct their archives to any particular location. Since 2015, all archived GroupWise activity is directed to one centralized location where archives of government employees are electronically stored.

The Acting Director, Business Infrastructure Services reports that when the archiving project was carried out, only one archive was identified and located for Mr. Mix. This archive was brought into the centralized location that resulted from standardization.

The Acting Director, Business Infrastructure Services also advised the Public Body that:

- On March 17, 2015, Brad Mix reported a problem by way of incident report to ITSS because he discovered time periods of missing emails from his archive.
- ITSS's electronic incident report confirms the above occurrence.
- On the same day, ITSS sent help to Mr. Mix.
- In order to determine if there might be a technical issue with Mr. Mix's archive, a copy of the archive was made with the assistance of an end user support technician resulting in there being two archives for Mr. Mix.
- All of Mr. Mix's archived GroupWise records from that point forward were directed to the copy of the original archive or the other archive.

As such, the original archive was created prior to the standardization of archiving in 2014-2015. The Acting Director, Business Infrastructure Services reports that ITSS is unable to confirm who created this archive or when exactly it was created. The Public Body does not know who or when it was created.

And, as previously discussed, the other archive was created on March 27, 2015 with the assistance of an end user technician. Mr. Mix has had use of this other archive since the incident report to ITSS in 2015.

- **If the missing emails were deleted, would this have occurred before or after the creation of the archive?**

This question has been discussed with the Acting Director, Business Infrastructure Services. He advises that each day Government makes a back-up copy of all Government records on the network, including email accounts and archives. As a result of storage requirements and budgetary constraints, this copy is retained for a period of 365 days. In turn, ITSS is able to review, analyze and/or consider an employee's network activity, such as inconsistencies, deletions and changes going back 365 days.

The two archives in issue were created in or prior to 2015. ITSS is unable to assist the Public Body to answer to this question.

- **Why are there two archives?**

Please see the response to the first question for the history behind the two archives.

- **In the first archive, please provide possible reasons for finding no emails in the inbox for the time periods June 13, 2010, to March 19, 2012, and in the sent box for the time periods June 12, 2010 to April 11, 2012.**

Generally speaking, the Public Body understands that email loss can occur as a result of a variety of things, including following a software upgrade or device change (such as upgrading of a mobile phone); corruption in files; and, deletion. There are also instances when it is not possible to determine the reason for losses.

The Public Body sought assistance from the Acting Director, Business Infrastructure Services, in relation to the time period of missing emails for Brad Mix and this question. As previously noted, each day Government makes a back-up copy of all Government records on the network.

This copy is retained for 365 days. As a result, the Public Body understands from the Acting Director, Business Infrastructure Services that:

- there are limits imposed on ITSS that result in its inability to provide reasons for all questions related to emails accounts and archives; and,
 - given this limitation one cannot speculate about the reasons for the findings referenced in your question.
- **Did you interview Brad Mix relating to these missing records if so, did he provide an explanation for the missing emails? E.g. Did these time periods correspond with a change of position for Mr. Mix, or period of absence from work?**

This matter was with discussed with Mr. Mix at length. He is not able to nor is he technically qualified to provide a technical explanation for the apparent loss of emails. The time periods in question do not correspond with a change of position, or a period of absence from work.

Mr. Mix reports that in 2015 he was looking through his archive for emails. It was at this time that he discovered that emails in his archive for periods of time appeared to be missing. Mr. Mix states that he did not understand what had happened as he could not locate emails for many files and contacts throughout 2011 and 2012. Although Mr. Mix advises that he does delete some transitory emails that he won't use again (as is permitted), he unequivocally states that he has not and does not intentionally delete other emails. He states that he was distressed by the discovery of missing emails.

He reports that following his discovery he immediately reached out to ITSS to report the problem.

Mr. Mix also reports that in early 2015 he had a mobile phone upgrade, a few months prior to his discovery, and he believes that this upgrade is related to the apparent loss of emails.

Mr. Mix noted that despite the existence of this issue he has participated in and arranged for searches for each and every access request related to his records, when asked to do so. In fact, he has had ITSS assistance with searches earlier this year to help him ensure that searches were carried out appropriately within the limitations of the GroupWise program.

- **Is it common to find time periods of missing emails in searching archives?**

This question has been discussed with the Acting Director, Business Infrastructure Services. He advises that while not an issue arising every day, it does happen. He confirmed that it is possible for an individual government employee to have a time period or time periods of missing emails.

Closing Remarks

Thank you for providing the public body with this opportunity to respond to the questions set out in your June 4, 2019 letter. We anticipate that it will provide you with the clarity you require to complete your review.

Should that not be the case or should you wish to discuss this matter for further, please contact the undersigned or the Access and Privacy Services Office.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

c: APSO

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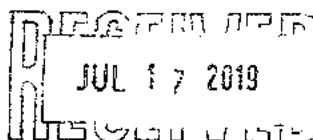


Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



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PO Box 2000, Charlottetown
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Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

July 15, 2019

Karen A. Rose,
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
P. O. Box 2000
Charlottetown, PE C1A 7N8

Dear Commissioner Rose:

Re: **Review under the *Freedom of Information and Protection of Privacy Act (the "Act")***
Public Body: Economic Growth, Tourism and Culture (formerly: Economic Development and Tourism)
Ref. No.: 2018-287
Your File No.: FI-19-271

The following is the Public Body's response to the second question contained in your letter dated June 4, 2019.

The second question was:

- At the times the archives were created, what policies/procedures were in place relating to retention of email records?

Section 5 (Recorded Information Management) of Treasury Board's Policy and Procedure Manual is the applicable records information management policy that has been in place since 1998. As you may be aware, this policy applies to public records (including emails) created by employees for Government departments and crown corporations.

In the Auditor General's 2016 report, she noted that the *Archives and Records Act* indicates that every public body should prepare a schedule for the retention and disposition of records. These schedules are to be approved by the Public Records Committee. At page 40 of the said 2016 report, the Auditor General indicated that the Public Body's predecessor and Innovation PEI had no approved retention and disposition schedules in place in 2013.

In 2014, a file classification plan was developed that included the approval to put in place a retention schedule for Innovation PEI. In 2015, when the other archive was created, there was no approved retention or disposition schedule in place. The Public Body continues to work on addressing this concern.

Notwithstanding the foregoing, the Public Body notes that in the case of Brad Mix's records there is an apparent loss of emails for many files that (in 2015) Mr. Mix believed he had retained but was not able to locate. Mr. Mix continues to be unable to locate said emails. As such, it does not appear that a retention policy or procedure would have impacted this matter in any event.

If you wish to discuss this matter further, please contact the undersigned or the Access and Privacy Services Office.

Sincerely,



Erin McGrath-Gaudet
Deputy Minister

c: APSO

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PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Access and
Privacy Services
Office

Bureau de l'accès à
l'information et de la
protection de la vie privée



C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

August 1, 2019

EGTC 2019-169

Mr. Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

Your request for access to records under the Act was received by the Department of Economic Growth, Tourism and Culture on July 19, 2019. Your request is as follows:

- **"All records pertaining to Brad Mix's incident report to Information Technology Shared services (ITSS) on March 17, 2015.**

Time period: March 1, 2015 to September 1, 2015"

We will provide the information available to you under the Act as quickly as possible. Although the Act allows a maximum of 30 days to respond, we will reply sooner than August 18, 2019, if possible.

If you have any questions, please contact our office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,

Mary-Lynn Smith
Access and Privacy Services Office

Aug 5, 2019

Karen A. Rose
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
Charlottetown PE C1A 7N8

Dear Ms. Rose,

I wanted to take this opportunity to make a few comments on the Public Body letter to you dated July 25, 2019.

The Public Body now relies on their July 10, 2019 letter to you in their response to your question: **"How were the archives created? By Whom? When?"**

Part of the Public Body new admission was the following:

"The Acting Director, Business Infrastructure Services also advised the Public Body that :

- *On March 17, 2015. Brad Mix reported a problem by way of incident report to ITSS because he discovered time periods of missing emails from his archive.*
- *ITSS's electronic incident report confirms the above occurrence*
- *On the same day, ITSS sent help to Mr. Mix*
- *In order to determine if there might be a technical issue with Mr. Mix's archive, a copy of the archive was made with the assistance of an end user support technician resulting in there being two archives for Mr. Mix.*
- *All of Mr. Mix's archived GroupWise records from that point forward were directed to the copy the original archive or the other archive."*

The Public Body further states:

"Mr. Mix reports that in 2015 he was looking through his archive for emails. It was at this time that he discovered that emails in his archive for periods of time appeared to be missing. Mr. Mix states that he did not understand what had happened as he could not locate emails for many files and contacts through 2011 and 2012.

Although Mr. Mix advises that he does delete some transitory emails that he won't use again (as is permitted), he unequivocally states that he has not intentionally deleted other emails. He states that he was distressed by the discovery of missing emails."

Firstly, this admission would have been extremely relevant from the Public Body from the first FOIPP we filed this past January. In fact, the amount of time, cost and effort wasted caused by the Public Body denials of missing emails before this July 10, 2019 admission is unacceptable for a Government.

What makes this admission/defence/excuse so difficult to take seriously is this excerpt from the Public Body letter to you dated May 29, 2019. In this letter, Ms McGrath-Gaudet wrote:

"Part of the information provided to you included a copy of the Record Search Form dated February 15, 2019. The Public Body has reviewed this form with Brad Mix who advises that he was involved in the search process and that his assistant, Pam Gorveatt, was the person who primarily conducted the initial search."

In the same May 29, 2019 letter, Ms McGrath-Gaudet addresses the review of archives and says the following:

*"In addition to the three questions addressed above, you have generally asked the Public Body to comment on why it believes no more responsive records exist than what has been identified. As discussed earlier in this response, **the Public Body has not been able to identify a particular reason for the results of the initial search.**"*

At all material times, Mr. Mix and presumably the Public Body were, or ought to have been, aware that the FOIPP requests fell within the timeframe of the emails that were already deleted. Although Mr. Mix stated these deleted emails caused him distress, Mr. Mix and the Public Body have been dishonest throughout the FOIPP process since January.

Phone Upgrade Deletes E-gaming Emails

I tried to find any plausible way a phone upgrade could explain the missing emails, however all people with information technology backgrounds that I spoke with found it laughable.

The fact is that within 365 days of Mr. Mix finding out his emails were missing on March 17, 2015, ITSS could have retrieved them and restored them accordingly. Scott Cudmore [Director, Enterprise Architecture, Information Technology Shared Services, Finance], explained the following to members of the Public Accounts Committee on February 1, 2018:

"When ITSS are instructed to "delete" email accounts, it is still possible to recover those emails for one year. This has to do with the manner in which "back ups" are routinely made by ITSS with a backup system that essentially has 365 "days" capacity."

Simply put, if Brad Mix made ITSS aware on March 17, 2015 then if the phone upgrade happened within 365 days (March 17, 2014) then all the emails could have been recovered. They were not.

In addition, I hired a private investigator to file FOIPPs on May 13, 2014 (#112 Appx. A). [I have attached Exhibit 112 from my affidavit in our Court filing January 2019. This has been submitted to you previously, wherein you will find the following references to the Appendix.]

This FOIPP requested the following:

"Copies of all emails and correspondence including phone records, PINS, documentation between Brad Mix and Paul Jenkins January 1, 2011-September 30, 2012"

This FOIPP (DIAL-2014-06) was dealt with quickly by Neil Stewart with an "all hands on deck" approach as evident in his email to Paynter and Dowling dated May 14, 2014 (#112 Appx. C). Given the attention it created and the fact it involved a Department of Justice lawyer, it would be very difficult to believe that Mr. Mix was not made aware of the FOIPP or involved in any search.

This FOIPP was dealt with quickly without any need for an extension or third party requests. It was returned in letter dated June 2, 2014 by Mr. Stewart returning the \$5.00 payment fee stating: No Records Found (#112 Appx B). Therefore the same group of emails that Mr. Mix states he found were missing on March 17, 2015 were gone before May 2014.

Cover Up

The Auditor General Report was clear in her comments on her own report, *"Throughout this report, there are numerous examples of non-compliance with legislation, policies and controls," MacAdam says in her report. "A number of decisions and actions demonstrated a lack of due regard for transparency and accountability."*

<https://www.theguardian.pe.ca/news/local/update-secrecy-was-the-name-of-the-game-in-the-e-gaming-scandal-58029/>

The fact is that driving force for e-gaming to be successful was to have a financial platform for payments and recruiting a "known gamer" to relocate to Prince Edward Island to give the project credibility. The key players within Government for the financial platform and recruiting were:

- Chris LeClair
- Brad Mix
- Melissa MacEachern
- Rory Beck

There is not one email available for any of them during this time period. How could this not be considered a cover-up?

Tories Then and Now

I am a little taken back by the Public Body given that since the Auditor General Report was released, the Tories, as the official opposition, demanded answers and accountability for the actors involved in deleting those emails.

In fact, just one year ago in the Legislative Assembly, the Tory Government, as opposition, were calling for a criminal investigation into deleted emails. Today, with the Tory Government being the Public Body, it no longer seem to be an issue of any importance and isn't be addressed.

<https://officialoppositionpei.ca/videoclips/iidi-justice-jamie-fox-question-period-22-may-18/>

http://www.peipc.ca/maclauchlan_misleading_islanders_on_missing_and_deleted_egaming_emails_fox

These are just a few thoughts I want to pass on. I want to take this opportunity to go on record saying that I am available to meet at your offices at your convenience for an official interview anytime if you consider it helpful.

Regards,

Paul Maines

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Aug 19, 2019

Karen A. Rose
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
Charlottetown PE C1A 7N8

Dear Ms Rose,

Subsection 8(1) of the *FOIPP Act* states: "The head of a public body shall make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely."

In addition, subsection 8(2) also states:

"The head of a public body shall create a record for an applicant if:

- (a) the record can be created from a record that is in electronic form and in the custody or under the control of the public body, using its normal computer hardware and software and technical expertise; and
- (b) creating the record would not unreasonably interfere with the operations of the public body. 2001,c.37,s.8."

I believe that the Public Body has failed to comply with all of the above. Please accept this letter as my request to seek a review of file FIN 2019-169 under subsection 9(2) of the *FOIPP Act*, where the public body is deemed to have refused access to responsive records.

Thank you in advance for your attention on this matter,

Regards,

Paul Maines

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Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
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Canada C1A 7N8

Bureau du sous-ministre
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Canada C1A 7N8

August 27, 2019

2019-169 EGTC

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Growth, Tourism and Culture, as follows:

"All records pertaining to Brad Mix's incident report to Information Technology Shared Services (ITTSS) on March 17, 2015"

(Date Range for Record Search: From 3/1/2015 to 9/1/2015)

I am writing to inform you that we are providing access to the records. A copy of the records is attached.

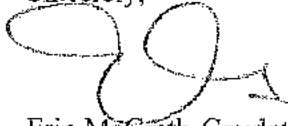
Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erin McGrath-Gaudet', with a stylized flourish at the end.

Erin McGrath-Gaudet
Deputy Minister

Attachment

c: APPO

INC-594961 Incident Detail

| | | | | |
|--------------------------|------------------|--------------------------|-----------------------|----------------|
| Affected End User | Requester | Status | Priority | Active? |
| Jim Ford | Phone | 3-Closed | 3-Medium | NO |
| Default Group | Location | Floor/Room Number | Contact Method | Phone |
| Client Services | 94 Evans St | director of marketing | | |

Incident Area

Service Request, General

Reported By

Leah Roy A

Assigned

Barnett Aaron A

Group

Client/Storm

Impact

Major Incident

Urgency

3-Low

3-Medium

Caused by Change Order

Call Back Date/Time

Change

Configuration Item

Groupwise Client

External System Ticket

Total Activity Time

00:00:34

Close Date/Time

03/27/2015 02:23 pm

Resolve Date/Time

03/27/2015 02:23 pm

Last Modified

03/20/2015 00:23 pm

Created By / Description

System_Admin [generating Action Item for Event Auto Close After 5 Days] closed Status from '3-Resolved' to '3-Closed'

Status changed from '3-Resolved' to '3-Closed'

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Status changed from '3-Resolved' to '3-Closed'

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|--|-------------------|---------------------|----------|
| Update Status | Barnett, Aaron A | 03/17/2015 9:15 pm | 00:05:00 |
| Status changed from 'Open to Work' to 'Progress' | | | |
| Transfer To | Marcidank, Steven | 03/17/2015 12:34 am | 00:02:00 |
| EUS Please assist | | | |
| Initial | Brack, Roy A | 03/17/2015 11:27 am | 00:03:31 |
| create a new request/identify problem/assign/issue | | | |
| Collapse All (5) | | | 47 of 7 |

Brad Mix - Re: Gap in my Sent Archive

From: Carol Mayne
To: Brad Mix
Date: 4/13/2015 10:22 AM
Subject: Re: Gap in my Sent Archive
CC: Edmund Malone; Norman MacDonald

Brad

Thanks for the note. Hope all is well with you.

I have sent your note along to Edmund Malone who is the Director responsible for Business Infrastructure. I am meeting with Norman MacDonald COO this afternoon and will discuss this with him as well. Either Ed or Norman will be back to you on the issue.

Thanks for raising this with us and please feel free to contact me anytime with issues.

Carol

>>> Brad Mix 13/04/2015 9:10 AM >>>

Hello Carol,

I hope everything is going well. I am hoping you may have a way to help me on this. Unfortunately I have a gap in my sent email archive from June 12, 2010 to April 11, 2012 where the sent items no longer exist and are not retrievable. I have checked a couple of times with ITSS and unfortunately they have not been able to help me.

Is there any way to access emails I sent during the time period ?

Let me know when you can.

Thanks,
Brad

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Brad Mix
To: Edmund Malone
Date: 4/16/2015 10:14 AM
Subject: Fwd: Re: Gap in my Sent Archive
Attachments: Re: Gap in my Sent Archive

Hello Ed,
Can you call me on this email, my number is ~~902-368-5957~~.
Brad

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Brad Mix
To: Edmund Malone
Date: 4/20/2015 10:31 AM
Subject: Fwd: Re: Gap in my Sent Archive

Hello Ed,
Can we try this a different way, people that I sent emails too during that time frame still have a record of my email. My inquiry are emails I sent specifically to Wes Sheridan. Can I get a copy of emails that I sent, or cced, to Wes Sheridan during that time frame ?

Call me with questions. Please let me know.
Brad

>>> Edmund Malone 4/16/2015 12:14 PM >>>
Hi Brad;

I am still working on your archive incident and I will get back to you when I have more detail and give you a call.

Thanks Ed



Ed Malone,
Director - Business Infrastructure Services
Emmalone@gov.pe.ca
(902) 368-4111

>>> Brad Mix 4/16/2015 10:14 AM >>>
Hello Ed,
Can you call me on this email, my number is 902-368-5957.
Brad

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September 3, 2019

Karen A. Rose
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
Charlottetown PE C1A 7N8

Dear Ms Rose,

Now that I am in possession of the Brad Mix Incident Report and the produced emails surrounding it, I have a few comments.

A key part of the Public Body submission on July 10, 2019 states that the acting Director, Business Infrastructure Services advised the Public Body that:

- On March 17, 2015 Brad Mix reported a problem by way of incident report to ITSS because he discovered time periods or missing emails from his archive.
- ITSS electronic incident report confirms the above occurrence
- On the same day, ITSS sent help to Mr. Mix

The issue with this response is that Brad Mix opened an ITSS incident report to find one particular email. Brad Mix's main concern was an email he sent to Wes Sheridan Nov. 24, 2011. At no time in any correspondence does Brad Mix mention his inbox or any other emails. According to INC-594961 Incident Detail:

Summary:

Missing emails in his GW archive...missing between June 2011 and March 2012

Description:

He is trying to find a message from Nov 24, 2011

User has 2 archive file on \\peifs76\gwarchive\bdmix

Unable to remote to PEI-10640

In the same letter from the Public Body in response your question #1:

"The acting director, business Infrastructure Services reports that when the archiving project was carried out **only one archive** was identified and created for Mr. Mix."

The question remains: "What happened to the second archive identified by ITSS in the Brad Mix Incident Report?"

The Incident Summary has a range of June 2011- March 2012 for missing sent emails. This range changed when on April 13, 2015 Brad Mix wrote to Carol Mayne:

"Hello Carol...I am hoping you may have a way to help me on this. Unfortunately I have a gap in my sent email archive from June 12, 2010 to April 11, 2012 where the sent items no longer exist and are not retrievable. I have checked a couple of times with ITSS and unfortunately they have not been able to help me. Is there any way to access email I sent during that time period?"

On April 20, 2015 wrote to Edmund Malone:

"Hello Ed...can we try this a different way, people that I sent emails too [sic] during that time frame still have a record of my email. My inquiry are emails I sent specifically to Wes Sheridan. Can I get a copy of emails that I sent, or cc'ed, to Wes Sheridan during that time frame?"

Again, the only concern were emails sent to Wes Sheridan. At no time during this report or in any correspondence does Brad Mix address any concern for his inbox and nor was it even brought to the attention of ITSS. The Incident report was opened and closed swiftly:

| | |
|---------------------|---------------------------|
| Open Date | 3/17/2015 11:27 am |
| Resolve Date | 3/17/2015 02:22 pm |
| Close Date | 2/22/2015 02:22 pm |

In the same response, the Public Body further states:

"Mr. Mix reports that in 2015 he was looking through his archive for emails. It was at this time that he discovered that emails in his archive for periods of time appeared to be missing. Mr. Mix states that he did not understand what had happened as he could not locate emails for many files and contacts through 2011 and 2012. Although Mr. Mix advises that he does delete some transitory emails that he won't use again (as is permitted), he unequivocally states that he has not intentionally deleted other emails. He states that he was distressed by the discovery of missing emails.

He reports that following his discovery he immediately reached to ITSS to report the problem."

With the benefit of now having the actual incident report, this Public Body statement is factually incorrect. Once again, at no time did Brad Mix report anything to ITSS other than the November 24, 2011 email he sent to Wes Sheridan. In the report and subsequent emails, Brad Mix never mentions, or seems to care, about his inbox and incoming emails. ITSS never received any instructions to look at Mr. Mix's inbox.

In February 2012 Prince Edward Government issued additional policy titled, "**Management and Usage Policy for Electronic Mail**" (attached). Section 3.0 is titled, "Responsibilities of the Mailbox Owner" and, section 3.1 "Mail Messages and Attachments" makes the responsibilities of the mailbox owner very clear.

"As per the '**Records Management Act**', certain mail messages can be deemed 'records' and **MUST** be printed and stored as per the Act states. Some email messages can contain attachments (i.e files, documents). If these attachments are deemed 'records', then they **MUST** be printed and stored per the Act states...."

ITSS also notes that it was unable to remotely access PEI-10640, and according to the Public Body, "Brad Mix states that ITSS is unable to confirm who created the archive or when exactly it was created." The Public Body also states it doesn't not know who or when it was created.

How is it that both Brad Mix and the Public Body are so sure that these records were not deleted illegally when neither knows anything about the creation or deletion of the Archive? The bottom line is that the records for Brad Mix in archive PEI-10640 were deleted without being stored as required by Provincial law and policy.

Regards

Paul Maines

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Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Brad Mix
To: Edmund Malone
Date: 4/16/2015 10:14 AM
Subject: Fwd: Re: Gap in my Sent Archive
Attachments: Re: Gap in my Sent Archive

Hello Ed,
Can you call me on this email, my number is 902-368-5957.
Brad

Brad Mix - Re: Gap in my Sent Archive

From: Carol Mayne
To: Brad Mix
Date: 4/13/2015 10:22 AM
Subject: Re: Gap in my Sent Archive
CC: Edmund Malone; Norman MacDonald

Brad

Thanks for the note. Hope all is well with you.

I have sent your note along to Edmund Malone who is the Director responsible for Business Infrastructure. I am meeting with Norman MacDonald COO this afternoon and will discuss this with him as well. Either Ed or Norman will be back to you on the issue.

Thanks for raising this with us and please feel free to contact me anytime with issues.

Carol

>>> Brad Mix 13/04/2015 9:10 AM >>>

Hello Carol,

I hope everything is going well. I am hoping you may have a way to help me on this. Unfortunately I have a gap in my sent email archive from June 12, 2010 to April 11, 2012 where the sent items no longer exist and are not retrievable. I have checked a couple of times with ITSS and unfortunately they have not been able to help me.

Is there any way to access emails I sent during the time period ?

Let me know when you can.

Thanks,
Brad

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Edmund Malone
To: Brad Mix
Date: 4/16/2015 12:14 PM
Subject: Fwd: Re: Gap in my Sent Archive

Hi Brad;

I am still working on your archive incident and I will get back to you when I have more detail and give you a call.

Thanks Ed



Ed Malone,
Director - Business Infrastructure Services
Emmalone@gov.pe.ca
(902) 368-4111

>>> Brad Mix 4/16/2015 10:14 AM >>>

Hello Ed,

Can you call me on this email, my number is 902-368-5957.

Brad

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Brad Mix
To: Edmund Malone
Date: 4/20/2015 10:31 AM
Subject: Fwd: Re: Gap in my Sent Archive

Hello Ed,
Can we try this a different way, people that I sent emails too during that time frame still have a record of my email. My inquiry are emails I sent specifically to Wes Sheridan. Can I get a copy of emails that I sent, or c'ed, to Wes Sheridan during that time frame ?

Call me with questions. Please let me know.
Brad

>>> Edmund Malone 4/16/2015 12:14 PM >>>
Hi Brad;

I am still working on your archive incident and I will get back to you when I have more detail and give you a call.

Thanks Ed



Ed Malone,
Director - Business Infrastructure Services
Emmalone@gov.pe.ca
(902) 368-4111

>>> Brad Mix 4/16/2015 10:14 AM >>>
Hello Ed,
Can you call me on this email, my number is 902-368-5957.
Brad

SOLCITOR-CLIENT PRIVILEGE

One page is protected pursuant to subsection 25(1) of the *Freedom of Information and Protection of Privacy Act*

59

From: paul maines <paulmaines@icloud.com>
Date: October 4, 2019 at 8:38:50 AM ADT
To: karose@assembly.pe.ca
Cc: mariamacdonald@assembly.pe.ca
Subject: **FOIPP 2019-204 EGTC**

Good morning Ms Rose,

Please accept this email as my request to review FOIPP 2019-204 EGTC.
Public Body has left a page blank for solicitor client privilege and using 25(1) of the
FOIPP act. Given that none of the parties are lawyers, I am challenging this provision.

Regards

Paul Maines

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Prince Edward Island Île-du-Prince-Édouard

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Legislative Assembly

Assemblée législative

Information and
Privacy Commissioner
PO Box 2000, Charlottetown PE
Canada C1A 7N8

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

October 7, 2019

PRIVATE AND CONFIDENTIAL

Erin McGrath-Gaudet, Deputy Minister
Department of Economic Growth, Tourism and Culture
P.O. Box 2000, Charlottetown, PE C1A 7N8

Dear Deputy McGrath-Gaudet:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Growth, Tourism and Culture
Your File No.: 2019-204
Our File No.: FI-19-309

This office received a request for review from an applicant dated October 4, 2019, by email on the same date, the text of which is enclosed. We advised Mary-Lynn Smith, FOIPP Coordinator at the Access and Privacy Services Office, of the request, by email on the same date.

This request for review relates to your public body's decision communicated by letter to the Applicant on September 25, 2019.

The issue raised by the Applicant relates to your public body's decision to withhold page 5, pursuant to clause 25(1) of the *FOIPP Act* (solicitor-client privilege). In accordance with the Supreme Court of Canada decision, *Alberta (OIPC) v. University of Calgary*, [2016] 2 SCR 555 (CanLII), your Public Body is not obligated to produce to the Commissioner the record to which you claim section 25(1) applies. You may still choose to provide a copy of this record to our office, but if you do not, we will require your evidence, by affidavit, in support of your claim.

Please provide a copy of your processing records for file 2019-204, by October 21, 2019. All documents provided to us for the purposes of this review will be returned to you upon the completion of the review, pursuant to subsection 53(5) of the *FOIPP Act*.

Sincerely yours,

Karen A. Rose
Information and Privacy Commissioner

c: FOIPP Coordinator, APSO
Applicant ✓ - no enclosure

Enclosure – Text of Request for Review by Applicant dated October 4, 2019 (1 page)

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Prince Edward Island Île-du-Prince-Édouard

Legislative Assembly

Assemblée législative

Information and
Privacy Commissioner
PO Box 2000, Charlottetown PE
Canada C1A 7N8

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

October 15, 2019

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PRIVATE AND CONFIDENTIAL

Erin McGrath-Gaudet, Deputy Minister
Department of Economic Growth, Tourism and Culture
P.O. Box 2000, Charlottetown, PE C1A 7N8

Dear Deputy McGrath-Gaudet:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Growth, Tourism and Culture
Your File No.: 2019-204
Our File No.: FI-19-309

Thank you for providing a copy of the processing file in this review, received in this office on October 11, 2019. I am now seeking your evidence and submissions.

Evidence of solicitor-client privilege

Further to my letter of October 7, 2019, please provide evidence regarding the solicitor-client privilege you claim under subsection 25(1) of the *FOIPP Act*. As we are not reviewing the actual record, we require you to provide as much detail as possible, so that I may properly assess your claim.

Submissions

In addition to your evidence, we request submissions regarding your claim of solicitor-client privilege. Your submissions should include detailed arguments with supporting evidence, documents, and authorities. You may wish to reference relevant court decisions, past decisions of this office, or decisions made by the Information and Privacy Commissioners in other jurisdictions. Our website (www.oipc.pe.ca) provides links to various resources that you may also find helpful. It is not necessary to provide copies of authorities; a citation will suffice.

Please provide your submissions by November 15, 2019. Upon receipt of your submissions, we will be providing a copy to the Applicant. Please draft your submissions with this in mind.

As you know, when assessing claims of solicitor-client privilege, we often accept *in camera* submissions as well. If you wish to provide such submissions, please advise, and I will consider your request. We will be providing a copy of your evidence, and any submissions which are not *in camera*, to the Applicant, and inviting them to respond. If we receive submissions from them, we will provide a copy to you and permit you a final reply, if any new issues are raised.

At this time, it is our expectation that the Order will be issued within four months after submissions are closed.

Sincerely yours,



Karen A. Rose
Information and Privacy Commissioner

c: FOIPP Coordinator, APSO
Applicant ✓



Prince Edward Island Île-du-Prince-Édouard

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C.P. 2000, Charlottetown PE
Canada C1A 7N8

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October 28, 2019

PRIVATE AND CONFIDENTIAL

Kevin J. Arsenault
32 Father Brady Lane
Fort Augustus, PE C1B 0X8
Via email

Dear Dr. Arsenault:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Growth, Tourism and Culture
PB File No.: 2018-287
Our File No.: FI-19-271

Further to our letter to you dated September 4, 2019, please find enclosed a summary of the information we gathered during our meeting with the Acting Director of Infrastructure Services, in relation to the email archiving process.

I invite you to provide your representations to this office. This would include any comments you wish to make, or questions relating to the Summary. I ask that you provide such representations, if you wish to do so, by **November 28, 2019**.

As noted in our letter to you of September 4, 2019, we plan to provide a copy of your submissions, received by email July 26, 2019, to the Public Body, together with any submissions you may have relating to the information described in the enclosed Summary.

Please note that the facts outlined in the Summary will be included in the final order of this review. In addition, I may include a summary of your, and the Public Body's, representations.

Submissions

In providing your submissions, please elaborate on your arguments with as much factual information as can reasonably be given. We welcome all submissions you deem relevant. Your submissions should include detailed arguments with supporting evidence, documents, and authorities. You may wish to reference relevant court decisions, past decisions of this office, or decisions made by the Information and Privacy Commissioners in other jurisdictions. Our website (www.oipc.pe.ca) provides links to various resources that you may also find helpful. If you are referring to a precedent, or other resource that may be located online, you may just send the citation, as opposed to sending a copy of the precedent.

Upon receipt of your submissions, we will be providing a copy to the Public Body, and if any new issues are raised by you, we will give them the opportunity to reply.

We will keep the parties up to date as this review progresses.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karen A. Rose', written over a horizontal line.

Karen A. Rose
Information and Privacy Commissioner

Enclosure: Summary (4 pages)

c: FOIPP Coordinator, APSO

Summary of Information gathered from John Brennan, Acting Director, Business Infrastructure Services, on September 19, 2019

Background

The Acting Director joined Information Technology Shared Services ("ITSS") in 2012. Before that, they had extensive experience in information technology services in the private sector.

2012-2015

The Acting Director was asked about the changes which have taken place at ITSS during their time there. ITSS was formed over a period of time between 2006 and 2007. The Acting Director advises that, prior to that time, each department had their own IT services. At that time, and up until 2015, there were no centralized email archives, and everyone was using GroupWise archives differently.

Each employee could set whether they wanted to archive emails, and if so, how and where to save their archives.

Why create an email archive?

Two examples of why an employee would wish to archive email records are:

- 1) GroupWise tends to react slowly if there are a lot of active emails; and
- 2) GroupWise might react slowly when accessed remotely from a location with poor internet connection, for example if an employee was travelling or otherwise working remotely.

How to create an email archive

An employee could set up their emails to automatically archive after a period of time, or could manually move an email, or block of emails, to their archives.

Where to store an email archive

An employee could store their archive(s) in three types of places:

- 1) on their local "C" drive of their PC or laptop
- 2) on their network, either on their shared "G" drive, or their personal "H" drive; or
- 3) on a removable medium such as a flash drive or cd.

As a result, an individual employee during that time period could have 5 or 6 different archives.

The Acting Director points out that a large part of their role is change management. Between 2012 and 2015, ITSS undertook to better manage data across all of government. The process, which was completed in 2015, involved the following steps:

- 1) **Upgrading the network:** The upgrade was necessary to ensure, before they moved servers from individual departments, that, for example, if someone was working in Tignish, they would be able to access a centralized server without disruptive delays.
- 2) **Consolidating domains:** In 2012-2013, there were multiple network domains. These were consolidated and standardized with appropriate security measures.
- 3) **Upgrading connectivity:** In 2013-2014, connectivity was upgraded from 1 GB to 10 GB.
- 4) **Virtualizing servers:** Prior to 2015, there were hundreds of servers in government. These were consolidated to main servers. The purpose of consolidated servers is for business continuity and disaster recovery. There are currently 3 tiers of servers: the virtual servers, the SAN, and the backups, as described below:
 - a. **Virtual servers:** Over 1,000 servers are centralized in 3 physical locations. They handle memory and processing capacity, and are managed by Virtualization Software. Seamless to the user, the Virtualization Software will redirect memory and processing capacity if one server is at capacity or if there is a failure.
 - b. **SAN: Storage area network.** There are 3 types of SAN:
 - i. **Unstructured Data Storage** for data such as pictures or videos;
 - ii. **General Data Storage**, which is a platform for basic files such as Word and Excel documents; and
 - iii. **Flash Drive Storage**, which is the newest, most cost effective in-house cloud storage. There are no moving parts to this server, there is less risk of it wearing out, and it is cost effective and stable.
 - c. **Backup: managed by Backup Software:**
 - i. Every night all of government is backed up, in duplicate, between two data centres.
 - ii. Every week all of government is backed up.

iii. Every month all of government is backed up.

These backups are used if there is need for disaster recovery, for example in the event of ransomware (encryption software). Backups are kept for 365 days, and are automatically overwritten.

GroupWise email archives Post-2015

The foregoing updates were necessary for a host of reasons. With specific reference to email archives, all of the foregoing was necessary in order to force standardization and consolidation of archives.

Since 2015, archives are centralized, and employees cannot create, copy, or direct their archives to a particular location. Each employee has access to only one archive, which generally covers those emails which are older than 90 days. The creation of archives addresses the risk that emails will be lost if GroupWise is corrupted. They also permit GroupWise to run faster. Only the owner of an archive may search the archive unless their access credentials (passwords) are reassigned. A Proxy can access and search current emails ("the production"), but not the archive.

By way of additional context, the Acting Director advised that PEI government data is growing at 60% per year, and 98% of data never gets touched or looked at 6 months after it is created. There has been a massive spike in data, now measured in pedabytes.

The Acting Director was asked about the role of ITSS in Records Management. They advise that all employees at ITSS have taken RIM 101, part of the records management education now required by all government employees. Although the data is not ITSS data, ITSS is responsible for the storage and access to data. To ensure compliance with recently developed records management policy and procedure, ITSS regularly consults with the Province's Public Archivist. ITSS consistently requires completed forms, and sign off by managers, for various actions involving GroupWise or other electronic records.

Missing Emails

The Acting Director was asked about the three potential explanations for a loss of a block of emails, provided by the public body: file corruption, upgrading phones, and upgrading software.

File Corruption

If a block of emails has been corrupted, ITSS would be able to see that the emails exist, but they would be unable to open them. With specific reference to Mr. Mix's missing emails, they were not corrupted.

Upgrading Phones

During an upgrade of a cellular phone, GroupWise links to the mobility servers which are, in turn, linked to the phone. The provincial policy has been that ITSS will not connect an employee's cellular phone to the mobility servers if there are more than 5,000 emails in the employee's in-box. If there are more than 5,000 emails, it is too much to manage.

If an employee is advised to reduce their inbox to 5,000 emails, they may decide to delete files, or archive a block of emails. Before email archives were centralized, the employee would have had to recall where they had stored their created archives.

Software upgrade

Electronic data may be moved or deleted during a software upgrade, but because there is a back-up system, such data may be recovered if it is discovered missing within 365 days.

Email Deletion

The Acting Director was also asked about whether it is possible for ITSS to determine if emails were deleted. The Acting Director advised that it is not possible to tell if an email was deleted. Such a determination would require a keystroke analysis, which is not something ITSS does.

The Acting Director also advised that, if an employee discovers that emails for a particular period of time are missing, and ITSS cannot find them in the backups, then they conclude they have been lost for more than 365 days.

<end>

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Prince Edward Island Île-du-Prince-Édouard

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Legislative Assembly

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Information and
Privacy Commissioner
PO Box 2000, Charlottetown PE
Canada C1A 7N8

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

Erin McGrath-Gaudet , Deputy Minister
Department of Economic Growth, Tourism and Culture
P.O. Box 2000,
Charlottetown, PE C1A 7N8

October 29, 2019

Dear Deputy McGrath-Gaudet:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Growth, Tourism and Culture
Your File No.: 2018-287
Our File No.: FI-19-271, FI-19-284, FI-19-286, FI-19-288, FI-19-289

One of the applicants in these reviews has requested a copy of the questions which guided our office during the interview with the Acting Director of Infrastructure Services, in order to better understand the Summary which was provided to both applicants yesterday. We have decided to provide a copy of the questions to both applicants, and to your Public Body. As you are aware, the interview was not scripted, and the enclosed questions were used as a guide only, as the Acting Director's responses to the initial questions determined how the interview proceeded.

Sincerely yours,

Karen A. Rose
Information and Privacy Commissioner

Enclosure: Questions (2 pages) ✓

c. APSO
Applicants (2) ✓

Although Mr. Mix advises that he does delete some transitory emails that he won't use again (as is permitted), he unequivocally states that he has not intentionally deleted other emails. He states that he was distressed by the discovery of missing emails."

Firstly, this admission would have been extremely relevant from the Public Body from the first FOIPP we filed this past January. In fact, the amount of time, cost and effort wasted caused by the Public Body denials of missing emails before this July 10, 2019 admission is unacceptable for a Government.

What makes this admission/defence/excuse so difficult to take seriously is this excerpt from the Public Body letter to you dated May 29, 2019. In this letter, Ms McGrath-Gaudet wrote:

"Part of the information provided to you included a copy of the Record Search Form dated February 15, 2019. The Public Body has reviewed this form with Brad Mix who advises that he was involved in the search process and that his assistant, Pam Gorveatt, was the person who primarily conducted the initial search."

In the same May 29, 2019 letter, Ms McGrath-Gaudet addresses the review of archives and says the following:

*"In addition to the three questions addressed above, you have generally asked the Public Body to comment on why it believes no more responsive records exist than what has been identified. As discussed earlier in this response, **the Public Body has not been able to identify a particular reason for the results of the initial search.**"*

At all material times, Mr. Mix and presumably the Public Body were, or ought to have been, aware that the FOIPP requests fell within the timeframe of the emails that were already deleted. Although Mr. Mix stated these deleted emails caused him distress, Mr. Mix and the Public Body have been dishonest throughout the FOIPP process since January.

Phone Upgrade Deletes E-gaming Emails

I tried to find any plausible way a phone upgrade could explain the missing emails, however all people with information technology backgrounds that I spoke with found it laughable.

The fact is that within 365 days of Mr. Mix finding out his emails were missing on March 17, 2015, ITSS could have retrieved them and restored them accordingly. Scott Cudmore [Director, Enterprise Architecture, Information Technology Shared Services, Finance], explained the following to members of the Public Accounts Committee on February 1, 2018:

"When ITSS are instructed to "delete" email accounts, it is still possible to recover those emails for one year. This has to do with the manner in which "back ups" are routinely made by ITSS with a backup system that essentially has 365 "days" capacity."

Simply put, if Brad Mix made ITSS aware on March 17, 2015 then if the phone upgrade happened within 365 days (March 17, 2014) then all the emails could have been recovered. They were not.

In addition, I hired a private investigator to file FOIPPs on May 13, 2014 (#112 Appx. A). [I have attached Exhibit 112 from my affidavit in our Court filing January 2019. This has been submitted to you previously, wherein you will find the following references to the Appendix.]

This FOIPP requested the following:

"Copies of all emails and correspondence including phone records, PINS, documentation between Brad Mix and Paul Jenkins January 1, 2011-September 30, 2012"

This FOIPP (DIAL-2014-06) was dealt with quickly by Neil Stewart with an "all hands on deck" approach as evident in his email to Paynter and Dowling dated May 14, 2014 (#112 Appx. C). Given the attention it created and the fact it involved a Department of Justice lawyer, it would be very difficult to believe that Mr. Mix was not made aware of the FOIPP or involved in any search.

This FOIPP was dealt with quickly without any need for an extension or third party requests. It was returned in letter dated June 2, 2014 by Mr. Stewart returning the \$5.00 payment fee stating: No Records Found (#112 Appx B). Therefore the same group of emails that Mr. Mix states he found were missing on March 17, 2015 were gone before May 2014.

Cover Up

The Auditor General Report was clear in her comments on her own report, *"Throughout this report, there are numerous examples of non-compliance with legislation, policies and controls," MacAdam says in her report. "A number of decisions and actions demonstrated a lack of due regard for transparency and accountability."*

<https://www.theguardian.pe.ca/news/local/update-secrecy-was-the-name-of-the-game-in-the-e-gaming-scandal-58029/>

The fact is that driving force for e-gaming to be successful was to have a financial platform for payments and recruiting a "known gamer" to relocate to Prince Edward Island to give the project credibility. The key players within Government for the financial platform and recruiting were:

- Chris LeClair
- Brad Mix
- Melissa MacEachern
- Rory Beck

There is not one email available for any of them during this time period. How could this not be considered a cover-up?

Tories Then and Now

I am a little taken back by the Public Body given that since the Auditor General Report was released, the Tories, as the official opposition, demanded answers and accountability for the actors involved in deleting those emails.

In fact, just one year ago in the Legislative Assembly, the Tory Government, as opposition, were calling for a criminal investigation into deleted emails. Today, with the Tory Government being the Public Body, it no longer seem to be an issue of any importance and isn't be addressed.

<https://officialoppositionpei.ca/videoclips/iidi-justice-jamie-fox-question-period-22-may-18/>

http://www.peipc.ca/maclauchlan_misleading_islanders_on_missing_and_deleted_egaming_emails_fox

These are just a few thoughts I want to pass on. I want to take this opportunity to go on record saying that I am available to meet at your offices at your convenience for an official interview anytime if you consider it helpful.

Regards,

Paul Maines

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Aug 19, 2019

Karen A. Rose

Information and Privacy Commissioner

Office of the Information and Privacy Commissioner

Charlottetown PE C1A 7N8

Dear Ms Rose,

Subsection 8(1) of the *FOIPP Act* states: "The head of a public body shall make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely."

In addition, subsection 8(2) also states:

"The head of a public body shall create a record for an applicant if:

(a) the record can be created from a record that is in electronic form and in the custody or under the control of the public body, using its normal computer hardware and software and technical expertise; and

(b) creating the record would not unreasonably interfere with the operations of the public body. 2001,c.37,s.8."

I believe that the Public Body has failed to comply with all of the above. Please accept this letter as my request to seek a review of file FIN 2019-169 under subsection 9(2) of the *FOIPP Act*, where the public body is deemed to have refused access to responsive records.

Thank you in advance for your attention on this matter,

Regards,

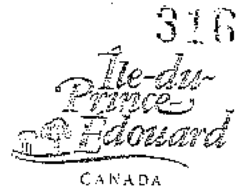
Paul Maines

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Economic Growth,
Tourism and
Culture

Croissance économique,
Tourisme et
Culture



Office of the Deputy Minister
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Bureau du sous-ministre
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

August 27, 2019

2019-169 EGTC

BY E-MAIL paulmaines@icloud.com

Paul Maines
140 Plug Street
Malpeque, PE C0B 1M0

Dear Mr. Maines:

Re: *Freedom of Information and Protection of Privacy Act* (the "Act")

You have requested access to records under the Act from the Department of Economic Growth, Tourism and Culture, as follows:

"All records pertaining to Brad Mix's incident report to Information Technology Shared Services (ITSS) on March 17, 2015"

(Date Range for Record Search: From 3/1/2015 to 9/1/2015)

I am writing to inform you that we are providing access to the records. A copy of the records is attached.

Pursuant to section 60 of the Act, you may make a written request to the Information and Privacy Commissioner to review this matter. You have 60 days from the date of this notice to request a review by writing to the Information and Privacy Commissioner at the J. Angus MacLean Building, P. O. Box 2000, Charlottetown, PE C1A 7N8.

When requesting a review, please provide the Commissioner with the following information:

- the file number noted at the top of this letter;
- a copy of this letter; and
- a copy of your original request form.

If you have any questions, please contact the Access and Privacy Services Office at 902-569-7590 or apso@gov.pe.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erin McGrath-Gaudet', with a stylized flourish at the end.

Erin McGrath-Gaudet
Deputy Minister

Attachment

c: APSO

| | | | |
|---|-------------------|---------------------|----------|
| Update Status | Barnett, Aaron A | 03/17/2015 01:15 pm | 03/05/00 |
| Status changed from 'Open' to 'Work in Progress' | | | |
| Transfer | Harcibank, Steven | 05/17/2015 11:34 am | 03/02/00 |
| BUS Pleasa assist. | | | |
| Initial | Beck, Roy A | 03/17/2015 11:37 am | 03/03/34 |
| create a new request(ticket/problem/change/issue) | | | |
| Collapse All (5) | | | |

Brad Mix - Re: Gap in my Sent Archive

From: Carol Mayne
To: Brad Mix
Date: 4/13/2015 10:22 AM
Subject: Re: Gap in my Sent Archive
CC: Edmund Malone; Norman MacDonald

Brad

Thanks for the note. Hope all is well with you.

I have sent your note along to Edmund Malone who is the Director responsible for Business Infrastructure. I am meeting with Norman MacDonald COO this afternoon and will discuss this with him as well. Either Ed or Norman will be back to you on the issue.

Thanks for raising this with us and please feel free to contact me anytime with issues.

Carol

>>> Brad Mix 13/04/2015 9:10 AM >>>

Hello Carol,

I hope everything is going well. I am hoping you may have a way to help me on this. Unfortunately I have a gap in my sent email archive from June 12, 2010 to April 11, 2012 where the sent items no longer exist and are not retrievable. I have checked a couple of times with ITSS and unfortunately they have not been able to help me.

Is there any way to access emails I sent during the time period ?

Let me know when you can.

Thanks,
Brad

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Brad Mix
To: Edmund Malone
Date: 4/16/2015 10:14 AM
Subject: Fwd: Re: Gap in my Sent Archive
Attachments: Re: Gap in my Sent Archive

Hello Ed,
Can you call me on this email, my number is 902-368-5957.
Brad

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Brad Mix
To: Edmund Malone
Date: 4/20/2015 10:31 AM
Subject: Fwd: Re: Gap in my Sent Archive

Hello Ed,
Can we try this a different way, people that I sent emails too during that time frame still have a record of my email. My inquiry are emails I sent specifically to Wes Sheridan. Can I get a copy of emails that I sent, or cc'ed, to Wes Sheridan during that time frame ?

Call me with questions. Please let me know.
Brad

>>> Edmund Malone 4/16/2015 12:14 PM >>>
Hi Brad;

I am still working on your archive incident and I will get back to you when I have more detail and give you a call.

Thanks Ed



Ed Malone,
Director - Business Infrastructure Services
Emmalone@gov.pe.ca
(902) 368-4111

>>> Brad Mix 4/16/2015 10:14 AM >>>
Hello Ed,
Can you call me on this email, my number is 902-368-5957.
Brad

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September 3, 2019

Karen A. Rose
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
Charlottetown PE C1A 7N8

Dear Ms Rose,

Now that I am in possession of the Brad Mix Incident Report and the produced emails surrounding it, I have a few comments.

A key part of the Public Body submission on July 10, 2019 states that the acting Director, Business Infrastructure Services advised the Public Body that:

- On March 17, 2015 Brad Mix reported a problem by way of incident report to ITSS because he discovered time periods or missing emails from his archive.
- ITSS electronic incident report confirms the above occurrence
- On the same day, ITSS sent help to Mr. Mix

The issue with this response is that Brad Mix opened an ITSS incident report to find one particular email. Brad Mix's main concern was an email he sent to Wes Sheridan Nov. 24, 2011. At no time in any correspondence does Brad Mix mention his inbox or any other emails. According to INC-594961 Incident Detail:

Summary:

Missing emails in his GW archive...missing between June 2011 and March 2012

Description:

He is trying to find a message from Nov 24, 2011

User has 2 archive file on \\peifs76\gwarchive\bdmix

Unable to remote to PEI-10640

In the same letter from the Public Body in response your question #1:

"The acting director, business Infrastructure Services reports that when the archiving project was carried out **only one archive** was identified and created for Mr. Mix."

The question remains: "What happened to the second archive identified by ITSS in the Brad Mix Incident Report?"

The Incident Summary has a range of June 2011- March 2012 for missing sent emails. This range changed when on April 13, 2015 Brad Mix wrote to Carol Mayne:

"Hello Carol...I am hoping you may have a way to help me on this. Unfortunately I have a gap in my sent email archive from June 12, 2010 to April 11, 2012 where the sent items no longer exist and are not retrievable. I have checked a couple of times with ITSS and unfortunately they have not been able to help me. Is there any way to access email I sent during that time period?"

On April 20, 2015 wrote to Edmund Malone:

"Hello Ed...can we try this a different way, people that I sent emails too [sic] during that time frame still have a record of my email. My inquiry are emails I sent specifically to Wes Sheridan. Can I get a copy of emails that I sent, or cc'ed, to Wes Sheridan during that time frame?"

Again, the only concern were emails sent to Wes Sheridan. At no time during this report or in any correspondence does Brad Mix address any concern for his inbox and nor was it even brought to the attention of ITSS. The Incident report was opened and closed swiftly:

| | |
|---------------------|---------------------------|
| Open Date | 3/17/2015 11:27 am |
| Resolve Date | 3/17/2015 02:22 pm |
| Close Date | 2/22/2015 02:22 pm |

In the same response, the Public Body further states:

"Mr. Mix reports that in 2015 he was looking through his archive for emails. It was at this time that he discovered that emails in his archive for periods of time appeared to be missing. Mr. Mix states that he did not understand what had happened as he could not locate emails for many files and contacts through 2011 and 2012. Although Mr. Mix advises that he does delete some transitory emails that he won't use again (as is permitted), he unequivocally states that he has not intentionally deleted other emails. He states that he was distressed by the discovery of missing emails.

He reports that following his discovery he immediately reached to ITSS to report the problem."

With the benefit of now having the actual incident report, this Public Body statement is factually incorrect. Once again, at no time did Brad Mix report anything to ITSS other than the November 24, 2011 email he sent to Wes Sheridan. In the report and subsequent emails, Brad Mix never mentions, or seems to care, about his inbox and incoming emails. ITSS never received any instructions to look at Mr. Mix's inbox.

In February 2012 Prince Edward Government issued additional policy titled, "**Management and Usage Policy for Electronic Mail**" (attached). Section 3.0 is titled, "Responsibilities of the Mailbox Owner" and, section 3.1 "Mail Messages and Attachments" makes the responsibilities of the mailbox owner very clear.

"As per the '**Records Management Act**', certain mail messages can be deemed 'records' and **MUST** be printed and stored as per the Act states. Some email messages can contain attachments (i.e files, documents). If these attachments are deemed 'records', then they **MUST** be printed and stored per the Act states...."

ITSS also notes that it was unable to remotely access PEI-10640, and according to the Public Body, "Brad Mix states that ITSS is unable to confirm who created the archive or when exactly it was created." The Public Body also states it doesn't not know who or when it was created.

How is it that both Brad Mix and the Public Body are so sure that these records were not deleted illegally when neither knows anything about the creation or deletion of the Archive? The bottom line is that the records for Brad Mix in archive PEI-10640 were deleted without being stored as required by Provincial law and policy.

Regards

Paul Maines

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Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Brad Mix
To: Edmund Malone
Date: 4/16/2015 10:14 AM
Subject: Fwd: Re: Gap in my Sent Archive
Attachments: Re: Gap in my Sent Archive

Hello Ed,
Can you call me on this email, my number is 902-368-5957.
Brad

Brad Mix - Re: Gap in my Sent Archive

From: Carol Mayne
To: Brad Mix
Date: 4/13/2015 10:22 AM
Subject: Re: Gap in my Sent Archive
CC: Edmund Malone; Norman MacDonald

Brad

Thanks for the note. Hope all is well with you.

I have sent your note along to Edraund Malone who is the Director responsible for Business Infrastructure. I am meeting with Norman MacDonald COO this afternoon and will discuss this with him as well. Either Ed or Norman will be back to you on the issue.

Thanks for raising this with us and please feel free to contact me anytime with issues.

Carol

>>> Brad Mix 13/04/2015 9:10 AM >>>

Hello Carol,

I hope everything is going well. I am hoping you may have a way to help me on this. Unfortunately I have a gap in my sent email archive from June 12, 2010 to April 11, 2012 where the sent items no longer exist and are not retrievable. I have checked a couple of times with ITSS and unfortunately they have not been able to help me.

Is there any way to access emails I sent during the time period ?

Let me know when you can.

Thanks,
Brad

Brad Mix - Fwd: Re: Gap in my Sent Archive

From: Edmund Malone
To: Brad Mix
Date: 4/16/2015 12:14 PM
Subject: Fwd: Re: Gap in my Sent Archive

Hi Brad;

I am still working on your archive incident and I will get back to you when I have more detail and give you a call.

Thanks Ed



Ed Malone,
Director - Business Infrastructure Services
Emmalone@gov.pe.ca
(902) 368-4111

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Brad Mix - Fwd: Re: Gap in my Sent Archive

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Ed Malone,
Director - Business Infrastructure Services
Emmalone@gov.pe.ca
(902) 368-4111

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Can you call me on this email, my number is 902-368-5957.
Brad

SOLICITOR-CLIENT PRIVILEGE

One page is protected pursuant to subsection 25(1) of the *Freedom of Information and Protection of Privacy Act*

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From: paul maines <paulmaines@icloud.com>
Date: October 4, 2019 at 8:38:50 AM ADT
To: karose@assembly.pe.ca
Cc: mariamacdonald@assembly.pe.ca
Subject: FOIPP 2019-204 EGTC

Good morning Ms Rose,

Please accept this email as my request to review FOIPP 2019-204 EGTC.
Public Body has left a page blank for solicitor client privilege and using 25(1) of the
FOIPP act. Given that none of the parties are lawyers, I am challenging this provision.

Regards

Paul Maines

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Prince Edward Island Île-du-Prince-Édouard

Legislative Assembly

Assemblée législative

Information and
Privacy Commissioner
PO Box 2000, Charlottetown PE
Canada C1A 7N8

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

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October 7, 2019

PRIVATE AND CONFIDENTIAL

Erin McGrath-Gaudet, Deputy Minister
Department of Economic Growth, Tourism and Culture
P.O. Box 2000, Charlottetown, PE C1A 7N8

Dear Deputy McGrath-Gaudet:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Growth, Tourism and Culture
Your File No.: 2019-204
Our File No.: FI-19-309

This office received a request for review from an applicant dated October 4, 2019, by email on the same date, the text of which is enclosed. We advised Mary-Lynn Smith, FOIPP Coordinator at the Access and Privacy Services Office, of the request, by email on the same date.

This request for review relates to your public body's decision communicated by letter to the Applicant on September 25, 2019.

The issue raised by the Applicant relates to your public body's decision to withhold page 5, pursuant to clause 25(1) of the *FOIPP Act* (solicitor-client privilege). In accordance with the Supreme Court of Canada decision, *Alberta (OIPC) v. University of Calgary*, [2016] 2 SCR 555 (CanLII), your Public Body is not obligated to produce to the Commissioner the record to which you claim section 25(1) applies. You may still choose to provide a copy of this record to our office, but if you do not, we will require your evidence, by affidavit, in support of your claim.

Please provide a copy of your processing records for file 2019-204, by October 21, 2019. All documents provided to us for the purposes of this review will be returned to you upon the completion of the review, pursuant to subsection 53(5) of the *FOIPP Act*.

Sincerely yours,

Karen A. Rose
Information and Privacy Commissioner

c: FOIPP Coordinator, APSO
Applicant *in enclosure*

Enclosure – Text of Request for Review by Applicant dated October 4, 2019 (1 page)

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Prince Edward Island Île-du-Prince-Édouard

Legislative Assembly

Assemblée législative

Information and
Privacy Commissioner
PO Box 2000, Charlottetown PE
Canada C1A 7N8

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

333

October 15, 2019

PRIVATE AND CONFIDENTIAL

Erin McGrath-Gaudet, Deputy Minister
Department of Economic Growth, Tourism and Culture
P.O. Box 2000, Charlottetown, PE C1A 7N8

Dear Deputy McGrath-Gaudet:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Growth, Tourism and Culture
Your File No.: 2019-204
Our File No.: FI-19-309

Thank you for providing a copy of the processing file in this review, received in this office on October 11, 2019. I am now seeking your evidence and submissions.

Evidence of solicitor-client privilege

Further to my letter of October 7, 2019, please provide evidence regarding the solicitor-client privilege you claim under subsection 25(1) of the *FOIPP Act*. As we are not reviewing the actual record, we require you to provide as much detail as possible, so that I may properly assess your claim.

Submissions

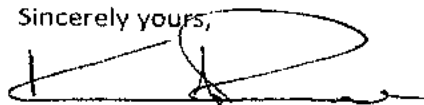
In addition to your evidence, we request submissions regarding your claim of solicitor-client privilege. Your submissions should include detailed arguments with supporting evidence, documents, and authorities. You may wish to reference relevant court decisions, past decisions of this office, or decisions made by the Information and Privacy Commissioners in other jurisdictions. Our website (www.oipc.pe.ca) provides links to various resources that you may also find helpful. It is not necessary to provide copies of authorities; a citation will suffice.

Please provide your submissions by November 15, 2019. Upon receipt of your submissions, we will be providing a copy to the Applicant. Please draft your submissions with this in mind.

As you know, when assessing claims of solicitor-client privilege, we often accept *in camera* submissions as well. If you wish to provide such submissions, please advise, and I will consider your request. We will be providing a copy of your evidence, and any submissions which are not *in camera*, to the Applicant, and inviting them to respond. If we receive submissions from them, we will provide a copy to you and permit you a final reply, if any new issues are raised.

At this time, it is our expectation that the Order will be issued within four months after submissions are closed.

Sincerely yours,



Karen A. Rose
Information and Privacy Commissioner

c: FOIPP Coordinator, APSO
Applicant ✓



Prince Edward Island Île-du-Prince-Édouard

Legislative Assembly

Information and
Privacy Commissioner
PO Box 2000, Charlottetown PE
Canada C1A 7N8

Assemblée législative

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

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October 28, 2019

PRIVATE AND CONFIDENTIAL

Kevin J. Arsenault
32 Father Brady Lane
Fort Augustus, PE C1B 0X8
Via email

Dear Dr. Arsenault:

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Economic Growth, Tourism and Culture
PB File No.: 2018-287
Our File No.: FI-19-271

Further to our letter to you dated September 4, 2019, please find enclosed a summary of the information we gathered during our meeting with the Acting Director of Infrastructure Services, in relation to the email archiving process.

I invite you to provide your representations to this office. This would include any comments you wish to make, or questions relating to the Summary. I ask that you provide such representations, if you wish to do so, by **November 28, 2019**.

As noted in our letter to you of September 4, 2019, we plan to provide a copy of your submissions, received by email July 26, 2019, to the Public Body, together with any submissions you may have relating to the information described in the enclosed Summary.

Please note that the facts outlined in the Summary will be included in the final order of this review. In addition, I may include a summary of your, and the Public Body's, representations.

Submissions

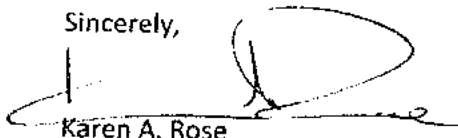
In providing your submissions, please elaborate on your arguments with as much factual information as can reasonably be given. We welcome all submissions you deem relevant. Your submissions should include detailed arguments with supporting evidence, documents, and authorities. You may wish to reference relevant court decisions, past decisions of this office, or decisions made by the Information and Privacy Commissioners in other jurisdictions. Our website (www.oipc.pe.ca) provides links to various resources that you may also find helpful. If you are referring to a precedent, or other resource that may be located online, you may just send the citation, as opposed to sending a copy of the precedent.

I | Page

Upon receipt of your submissions, we will be providing a copy to the Public Body, and if any new issues are raised by you, we will give them the opportunity to reply.

We will keep the parties up to date as this review progresses.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karen A. Rose', written over a horizontal line.

Karen A. Rose
Information and Privacy Commissioner

Enclosure: Summary (4 pages)

c: FOIPP Coordinator, APSO

Summary of Information gathered from John Brennan, Acting Director, Business Infrastructure Services, on September 19, 2019

Background

The Acting Director joined Information Technology Shared Services ("ITSS") in 2012. Before that, they had extensive experience in information technology services in the private sector.

2012-2015

The Acting Director was asked about the changes which have taken place at ITSS during their time there. ITSS was formed over a period of time between 2006 and 2007. The Acting Director advises that, prior to that time, each department had their own IT services. At that time, and up until 2015, there were no centralized email archives, and everyone was using GroupWise archives differently.

Each employee could set whether they wanted to archive emails, and if so, how and where to save their archives.

Why create an email archive?

Two examples of why an employee would wish to archive email records are:

- 1) GroupWise tends to react slowly if there are a lot of active emails; and
- 2) GroupWise might react slowly when accessed remotely from a location with poor internet connection, for example if an employee was travelling or otherwise working remotely.

How to create an email archive

An employee could set up their emails to automatically archive after a period of time, or could manually move an email, or block of emails, to their archives.

Where to store an email archive

An employee could store their archive(s) in three types of places:

- 1) on their local "C" drive of their PC or laptop
- 2) on their network, either on their shared "G" drive, or their personal "H" drive; or
- 3) on a removable medium such as a flash drive or cd.

As a result, an individual employee during that time period could have 5 or 6 different archives.

The Acting Director points out that a large part of their role is change management. Between 2012 and 2015, ITSS undertook to better manage data across all of government. The process, which was completed in 2015, involved the following steps:

- 1) **Upgrading the network:** The upgrade was necessary to ensure, before they moved servers from individual departments, that, for example, if someone was working in Tignish, they would be able to access a centralized server without disruptive delays.
- 2) **Consolidating domains:** In 2012-2013, there were multiple network domains. These were consolidated and standardized with appropriate security measures.
- 3) **Upgrading connectivity:** In 2013-2014, connectivity was upgraded from 1 GB to 10 GB.
- 4) **Virtualizing servers:** Prior to 2015, there were hundreds of servers in government. These were consolidated to main servers. The purpose of consolidated servers is for business continuity and disaster recovery. There are currently 3 tiers of servers: the virtual servers, the SAN, and the backups, as described below:
 - a. **Virtual servers:** Over 1,000 servers are centralized in 3 physical locations. They handle memory and processing capacity, and are managed by Virtualization Software. Seamless to the user, the Virtualization Software will redirect memory and processing capacity if one server is at capacity or if there is a failure.
 - b. **SAN: Storage area network.** There are 3 types of SAN:
 - i. **Unstructured Data Storage** for data such as pictures or videos;
 - ii. **General Data Storage**, which is a platform for basic files such as Word and Excel documents; and
 - iii. **Flash Drive Storage**, which is the newest, most cost effective in-house cloud storage. There are no moving parts to this server, there is less risk of it wearing out, and it is cost effective and stable.
 - c. **Backup: managed by Backup Software:**
 - i. Every night all of government is backed up, in duplicate, between two data centres.
 - ii. Every week all of government is backed up.

iii. Every month all of government is backed up.

These backups are used if there is need for disaster recovery, for example in the event of ransomware (encryption software). Backups are kept for 365 days, and are automatically overwritten.

GroupWise email archives Post-2015

The foregoing updates were necessary for a host of reasons. With specific reference to email archives, all of the foregoing was necessary in order to force standardization and consolidation of archives.

Since 2015, archives are centralized, and employees cannot create, copy, or direct their archives to a particular location. Each employee has access to only one archive, which generally covers those emails which are older than 90 days. The creation of archives addresses the risk that emails will be lost if GroupWise is corrupted. They also permit GroupWise to run faster. Only the owner of an archive may search the archive unless their access credentials (passwords) are reassigned. A Proxy can access and search current emails ("the production"), but not the archive.

By way of additional context, the Acting Director advised that PEI government data is growing at 60% per year, and 98% of data never gets touched or looked at 6 months after it is created. There has been a massive spike in data, now measured in pedabytes.

The Acting Director was asked about the role of ITSS in Records Management. They advise that all employees at ITSS have taken RIM 101, part of the records management education now required by all government employees. Although the data is not ITSS data, ITSS is responsible for the storage and access to data. To ensure compliance with recently developed records management policy and procedure, ITSS regularly consults with the Province's Public Archivist. ITSS consistently requires completed forms, and sign off by managers, for various actions involving GroupWise or other electronic records.

Missing Emails

The Acting Director was asked about the three potential explanations for a loss of a block of emails, provided by the public body: file corruption, upgrading phones, and upgrading software.

File Corruption

If a block of emails has been corrupted, ITSS would be able to see that the emails exist, but they would be unable to open them. With specific reference to Mr. Mix's missing emails, they were not corrupted.

Upgrading Phones

During an upgrade of a cellular phone, GroupWise links to the mobility servers which are, in turn, linked to the phone. The provincial policy has been that ITSS will not connect an employee's cellular phone to the mobility servers if there are more than 5,000 emails in the employee's in-box. If there are more than 5,000 emails, it is too much to manage.

If an employee is advised to reduce their inbox to 5,000 emails, they may decide to delete files, or archive a block of emails. Before email archives were centralized, the employee would have had to recall where they had stored their created archives.

Software upgrade

Electronic data may be moved or deleted during a software upgrade, but because there is a back-up system, such data may be recovered if it is discovered missing within 365 days.

Email Deletion

The Acting Director was also asked about whether it is possible for ITSS to determine if emails were deleted. The Acting Director advised that it is not possible to tell if an email was deleted. Such a determination would require a keystroke analysis, which is not something ITSS does.

The Acting Director also advised that, if an employee discovers that emails for a particular period of time are missing, and ITSS cannot find them in the backups, then they conclude they have been lost for more than 365 days.

<end>

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Questions for John Brennan, Acting Director, Business Infrastructure Services

September 19, 2019

Background

How long have you worked at IT Services? (IT Services was centralized in 2007)

Where did you work before that?

Do you have experience in Records Management?

Have you observed changes in Records Management during your year(s) at IT Services?

Can you describe how changes have impacted IT Services?

Email Archives

How do you define an email archive?

Since 2015, archives are centralized, and employees cannot create, copy, or direct their archives to a particular location. Please describe how archives are created now. Does each employee have only one archive?

How is this different from, for example, the status in 2011 and 2012?

You are not aware who created Mr. Mix's original archive. Who normally created an email archive prior to 2014-2015?

Why is the second archive different from the first (different time frame)?

Why are archives created now, and why were they created prior to 2014-2015?

Prior to 2014-2015, did some departments create archives as a matter of course?

How far do email archives go back in time? Are there 15-year-old emails? 20?

Searching Email Archives

Please walk me through an electronic search.

What are the possible parameters of a search – dates? Subject? Key words within the email?

Will the search function also search attachments?

Missing Emails

In March, 2015, when Brad Mix reported missing emails from his archive, what was the capability of ITSS to determine the cause of the missing emails? How long could you look back? How long did you look back?

I have been advised that email loss can occur as a result of a software upgrade or device change, such as upgrading a cell phone – have you observed this? How and why does this happen?

If I had deleted a group of emails in my archive, would ITSS be able to detect that I did and, if so, for how far back in time? Would ITSS be able to retrieve the deleted emails?

Have you experienced file corruption relating to missing emails? How and why would this occur?

To your knowledge, have other provincial government employees experienced missing emails over specified time periods? In your experience, how often does this happen?

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Public Body file EGTC 2019-096

In the matter between

Paul Maines (the "Applicant")
and

Department of Economic Growth, Tourism, and
Culture (the "Public Body")

RECEIVED
OCT 09 2019
Information Commission

Consent Order

On May 16, 2019 the Public Body received a request from the Applicant for information pursuant to the *Freedom of Information and Protection of Privacy Act* ("Act").

On May 23, 2019 the Applicant and the Public Body agreed on a plan to respond to 11 concurrent requests. The Applicant and the Public Body also agreed that the Public Body would commence processing this request.

On July 23, 2019 the Information and Privacy Commissioner granted the Public Body a time extension of 30 days, to August 22, 2019 to process the request.

On July 29, 2019 and August 12, 2019 the Public Body advised the Applicant that the responsive records contained information relating to third parties.

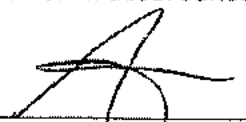
On September 20, 2019 the Public Body advised the Applicant that they were proposing a further extension of time to process four requests, including the request identified as EGTC 2019-096.

Pursuant to subsection 76(1) of the Act, the head of a Public Body may require an applicant to pay to the Public Body fees for services as provided in the regulations. However, the Public Body has not issued a fee estimate, and does not intend to charge a fee to the Applicant.

Pursuant to subsection 61(3) of the Act, where a Public Body does not respond in time to a request for access to a record, it is to be treated as a decision to refuse access. Notwithstanding the foregoing, the Public Body desires to enter into this Consent Order to confirm its intention to provide responsive records to the Applicant in accordance with the Act pursuant to the timelines set out below.

Accordingly, the Public Body now proposes to respond to the Applicant in accordance with the Act on or before **October 24, 2019**. The Applicant agrees to this proposal.

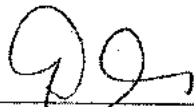
As noted, the records contain information of third parties. The Public Body will withhold those records involving information of third parties for twenty (20) days after the day of notice is given pursuant to section 29 of the Act to give the third parties who have not consented to disclosure time to request a review by the Commissioner. If a third party requests a review by the Commissioner, the Public Body will continue to withhold those records involving said third party's information until a review has been concluded in accordance with the Act.

x 
Signed by or on behalf of the Applicant

Rex Maires

Print Name

Dated: Oct 9/2019



Signed by or on behalf of the Public Body

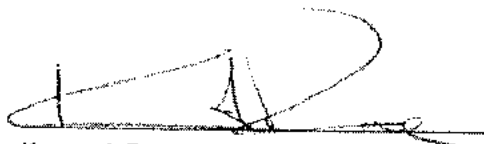
ERIN McGRATH-GAUDET

Print Name

Dated: _____

As agreed by the parties, by order pursuant to s. 66 of the Act, I require the Department of Economic Growth, Tourism, and Culture to respond to the Applicant in accordance with subsection 8(1) of the Act on or before October 24, 2019.

Dated: October 9, 2019



Karen A Rose
Information and Privacy Commissioner

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SI-25-28823

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Public Body file EGTC 2019-088

DOCUMENT FILED

OCT 09 2019

REGISTRY OF PUBLIC BODIES

In the matter between

Paul Maines (the "Applicant")
and
Department of Economic Growth, Tourism, and
Culture (the "Public Body")

Consent Order

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On July 23, 2019 the Information and Privacy Commissioner granted the Public Body a time extension of 30 days, to August 22, 2019.

On July 29, 2019 and August 12, 2019 the Public Body advised the Applicant that the responsive records contained information relating to third parties.

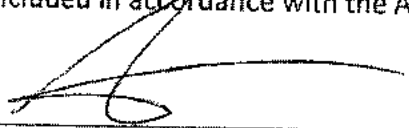
On September 20, 2019 the Public Body advised the Applicant that they were proposing a further extension of time to process four requests, including the request identified as EGTC 2019-088.

Pursuant to subsection 76(1) of the Act, the head of a Public Body may require an applicant to pay to the Public Body fees for services as provided in the regulations. However, the Public Body has not issued a fee estimate, and does not intend to charge a fee to the Applicant.

Pursuant to subsection 61(3) of the Act, where a Public Body does not respond in time to a request for access to a record, it is to be treated as a decision to refuse access. Notwithstanding the foregoing, the Public Body desires to enter into this Consent Order to confirm its intention to provide responsive records to the Applicant in accordance with the Act pursuant to the timelines set out below.

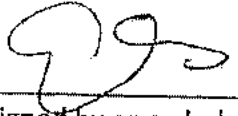
Accordingly, the Public Body now proposes to respond to the Applicant in accordance with the Act on or before **November 8, 2019**. The Applicant agrees to this proposal.

As noted, the records contain information of third parties. The Public Body will withhold those records involving information of third parties for twenty (20) days after the day of notice is given pursuant to section 29 of the Act to give the third parties who have not consented to disclosure time to request a review by the Commissioner. If a third party requests a review by the Commissioner, the Public Body will continue to withhold those records involving said third party's information until a review has been concluded in accordance with the Act.

X 
Signed by or on behalf of the Applicant

Paul Mines
Print Name

Dated: Oct. 9/2019


Signed by or on behalf of the Public Body

ERIN MCGRATH-GAUDET
Print Name

Dated: _____

As agreed by the parties, by order pursuant to s. 66 of the Act, I require the Department of Economic Growth, Tourism, and Culture to respond to the Applicant in accordance with subsection 8(1) of the Act on or before November 8, 2019.

Dated: October 9, 2019



Karen A Rose
Information and Privacy Commissioner

65



In the Matter of a Request for Review between .

Paul Maines (the "Applicant")
and

**Department of Economic Growth, Tourism, and
Culture (the "Public Body")**

Consent Order

On May 14, 2019 the Public Body received a request from the Applicant for information pursuant to the *Freedom of Information and Protection of Privacy Act* (the "Act").

On May 23, 2019 the Applicant and the Public Body agreed on a plan to respond to 11 concurrent requests. The Applicant and the Public Body also agreed that the Public Body would commence processing this request on or before June 22, 2019, with a projected response date of July 22, 2019.

On July 30, 2019 the Public Body extended its time to respond pursuant to section 12 of the Act to August 21, 2019.

On September 20, 2019 the Public Body advised the Applicant that they were proposing a further extension of time to process four requests, including the request identified as EGTC 2019-091.

Pursuant to subsection 76(1) of the Act, the head of a Public Body may require an applicant to pay to the Public Body fees for services as provided in the regulations. However, the Public Body has not issued a fee estimate, and does not intend to charge a fee to the Applicant.


The Applicant filed this request for review regarding the Public Body's failure to respond to an access request in accordance with the timelines set out in ss. 9 and 12 of the Act.

Pursuant to subsection 61(3) of the Act, where a Public Body does not respond in time to a request for access to a record, it is to be treated as a decision to refuse access. Notwithstanding the foregoing, the Public Body desires to enter into this Consent Order to confirm its intention to provide responsive records in accordance with the Act to the Applicant pursuant to the timelines set out below.

Accordingly, the Public Body now proposes to respond to the Applicant in accordance with the Act on or before **January 7, 2020**. The Applicant agrees to this proposal.


As noted, the records contain information of third parties. The Public Body will withhold those records involving information of third parties for twenty (20) days after the day of notice is given pursuant to section 29 of the Act to give the third parties who have not consented to disclosure time to request a review by the Commissioner. If a third party requests a review by the Commissioner, the Public Body

will continue to withhold those records involving said third party's information until a review has been concluded in accordance with the Act.

X 
Signed by or on behalf of the Applicant

Paul Marino
Print Name

Dated: Oct. 9/2019

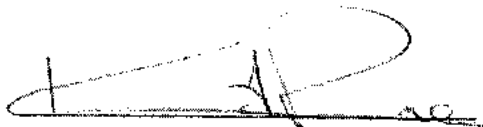

Signed by or on behalf of the Public Body

E. McGRATH-GAUDET
Print Name

Dated: _____

As agreed by the parties, by order pursuant to s. 66 of the Act, I require the Department of Economic Growth, Tourism, and Culture to respond to the Applicant in accordance with subsection 8(1) of the Act on or before January 7, 2020.

Dated: October 9, 2019


Karen A Rose
Information and Privacy Commissioner

66



In the Matter of a Request for Review between

Paul Maines (the "Applicant")
and

**Department of Economic Growth, Tourism, and
Culture (the "Public Body")**

Consent Order

On May 16, 2019 the Public Body received an access request from the Applicant for information pursuant to the *Freedom of Information and Protection of Privacy Act* ("Act").

On May 23, 2019 the Applicant and the Public Body agreed on a plan to respond to 11 concurrent requests. They agreed that the Public Body would commence processing this request on or before Saturday July 8, 2019, with a projected response date of August 7, 2019.

On August 6, 2019 the Public Body extended its time to respond pursuant to section 12 of the Act, to September 6, 2019.

On September 20, 2019 the Public Body advised the Applicant that they were proposing a further extension of time to process four requests, including the request identified as EGTC 2019-103.


Pursuant to subsection 76(1) of the Act, the head of a Public Body may require an applicant to pay to the Public Body fees for services as provided in the regulations. However, the Public Body has not issued a fee estimate, and does not intend to charge a fee to the Applicant.

The Applicant filed this request for review regarding the Public Body's failure to respond to an access request in accordance with the timelines set out in ss. 9 and 12 of the Act.

Pursuant to subsection 61(3) of the Act, where a Public Body does not respond in time to a request for access to a record, it is to be treated as a decision to refuse access. Notwithstanding the foregoing, the Public Body desires to enter into this Consent Order to confirm its intention to provide responsive records to the Applicant in accordance with the Act pursuant to the timelines set out below.


Accordingly, the Public Body now proposes to respond to the Applicant in accordance with the Act on or before **October 24, 2019**. The Applicant agrees to this proposal.

As noted, the records contain information of third parties. The Public Body will withhold those records involving information of third parties for twenty (20) days after the day of notice is given pursuant to section 29 of the Act to give the third parties who have not consented to disclosure time to request a review by the Commissioner. If a third party requests a review by the Commissioner, the Public Body will continue to withhold those records involving said third party's information until a review has been concluded in accordance with the Act.

X 
Signed by or on behalf of the Applicant

Paul Mahes
Print Name

Dated: Oct. 9/2019



Signed by or on behalf of the Public Body

ERIN McGRATH - GAUDET
Print Name

Dated: _____

As agreed by the parties, by order pursuant to s. 66 of the Act, I require the Department of Economic Growth, Tourism, and Culture to respond to the Applicant in accordance with subsection 8(1) of the Act on or before October 24, 2019.

Dated: October 9, 2019


Karen A Rose
Information and Privacy Commissioner

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Sep. 20. 2019 9:38AM

No. 0949 P. 3

352

Court File No: S1-GS-27636

SUPREME COURT OF PRINCE EDWARD ISLAND
(GENERAL SECTION)

BETWEEN:

CAPITAL MARKETS TECHNOLOGIES, INC. and 7645686 CANADA INC.

PLAINTIFFS;

AND:

GOVERNMENT OF PRINCE EDWARD ISLAND, WES SHERIDAN, STEVE MACLEAN, ALLAN CAMPBELL, CHRIS LECLAIR, BRAD MIX, CHERYL PAYNTER, STEVEN DOWLING, WILLIAM DOW, MELISSA MACEACHERN, ROBERT GHIZ, GARY SCALES, TRACEY CUTCLIFFE, NEIL STEWART, PAUL JENKINS, and 7628382 CANADA CORPORATION

DEFENDANTS.

SECOND SUPPLEMENTARY AFFIDAVIT OF DOCUMENTS
ON BEHALF OF
GOVERNMENT OF PRINCE EDWARD ISLAND, WES SHERIDAN, STEVE
MACLEAN, ALLAN CAMPBELL, CHRIS LECLAIR, BRAD MIX, CHERYL
PAYNTER, MELISSA MACEACHERN, ROBERT GHIZ, AND NEIL STEWART

JOHN W. MCDONALD
MCDONALD, ROSS
9 Brant Road, South
Cambridge, ON N1S 2W4
Solicitor for the Plaintiffs

JONATHAN M. COADY
STEWART MCKELVEY
65 Grafton Street
Charlottetown, PE C1A 8B9
Solicitor for the Government of Prince Edward
Island, Wes Sheridan, Steve MacLean, Allan
Campbell, Chris LeClair, Brad Mix, Cheryl Paynter,
Melissa MacEachern, Robert Ghiz, and Neil
Stewart

Court File No: S1-GS-27636

SUPREME COURT OF PRINCE EDWARD ISLAND

(GENERAL SECTION)

BETWEEN:

CAPITAL MARKETS TECHNOLOGIES, INC. and 7645686 CANADA INC.

PLAINTIFFS;

AND:

GOVERNMENT OF PRINCE EDWARD ISLAND, WES SHERIDAN, STEVE MACLEAN, ALLAN CAMPBELL, CHRIS LECLAIR, BRAD MIX, CHERYL PAYNTER, STEVEN DOWLING, WILLIAM DOW, MELISSA MACEACHERN, ROBERT GHIZ, GARY SCALES, TRACEY CUTCLIFFE, NEIL STEWART, PAUL JENKINS, and 7628382 CANADA CORPORATION

DEFENDANTS.

SECOND SUPPLEMENTARY AFFIDAVIT OF DOCUMENTS ON BEHALF OF GOVERNMENT OF PRINCE EDWARD ISLAND, WES SHERIDAN, STEVE MACLEAN, ALLAN CAMPBELL, CHRIS LECLAIR, BRAD MIX, CHERYL PAYNTER, MELISSA MACEACHERN, ROBERT GHIZ, AND NEIL STEWART

I, Marie M. Kemp, CIP, of Charlottetown, in the Province of Prince Edward Island

MAKE OATH AND SAY:

1. I am an Insurance Officer in Risk Management and Insurance for the Government of Prince Edward Island, and this action has been assigned to me for management on behalf of the Government of Prince Edward Island (the "Government"), Wes Sheridan, Steve MacLean, Allan Campbell, Chris LeClair, Brad Mix, Cheryl Paynter, Melissa MacEachern, Robert Ghiz, and Neil Stewart (collectively, the "Defendants").

2. I have conducted a diligent search of the records of the Government and the Defendants, and I made appropriate enquiries of others to inform myself in order to make this affidavit. This supplementary affidavit discloses, to the full extent of my knowledge, information

and belief, all documents relating to any matter in issue in this action that are, or have been, in the possession, control or power of the Government and the Defendants.

3. I have listed in Schedule "A" those documents that are in the possession, control or power of the Government and the Defendants and that the Government and the Defendants do not object to producing for inspection. And I hereby annex true copies of such documents to this my affidavit unless a true copy is being provided pursuant to Rule 30.03 (4).

4. I have listed in Schedule "B" those documents that are or were in the possession, control or power of the Government and the Defendants and that the Government and the Defendants object to producing because the Government and the Defendants claim they are privileged, and I have stated in Schedule "B" the grounds for each such claim.

5. I have listed in Schedule "C" those documents that were formerly in the possession, control or power of the Government and the Defendants, but are no longer in the possession, control or power of the Government and the Defendants. I have also stated in Schedule "C" when and how the Government and the Defendants lost possession or control of or power over them and their present location.

6. The Government and the Defendants have never had in the possession, control or power of the Government and the Defendants any documents relating to any matter in issue in this action other than those listed in Schedules "A", "B" and "C".

SWORN TO before me at Charlottetown, in the Province of Prince Edward Island, the 19th day of September, 2019.

A Commissioner for taking Affidavits in the Supreme Court of Prince Edward Island

[Handwritten signature]

[Handwritten signature: Marie M. Kemp]
Marie M. Kemp, CIP

CERTIFICATE OF SOLICITOR

I CERTIFY that I have explained to the deponent:

- (a) the necessity of making full disclosure of all documents relating to any matter in issue in the action; and
- (b) what kinds of documents are likely to be relevant to the allegations made in the pleadings.

DATED at Charlottetown, Queens County, Province of Prince Edward Island this 19th day of September, 2019.



JONATHAN M. COADY
Stewart McKelvey
65 Grafton Street
Charlottetown, P.E.I.
Telephone: (902) 892 2485
Solicitor for the Government and the Defendants

SCHEDULE "A"

Documents in the possession, control or power of the Government and the Defendants that the Government and the Defendants do not object to producing for inspection.

- 1. Please see the attached index and the PDF copies of the documents.**

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| Prod Number | Date Recd | Doc Type | Date File | Author | Recipient |
|-------------|------------|----------|--|---------------|----------------|
| PEI003351 | 11/23/2011 | Email | Re: Letter to Phillip | Sheridan, Wes | Mix, Brad |
| PEI003353 | 11/24/2011 | Email | Re: Meeting Follow-up | Sheridan, Wes | Mix, Brad |
| PEI003355 | 9/5/2012 | Email | Re: letter from Keith laslop | Sheridan, Wes | LeClair, Chris |
| PEI003356 | 10/1/2012 | Email | RE: letter re: payment processing in PEI | Laslop, Keith | Sheridan, Wes |

Sep. 20. 2019 9:39AM

No. 0949 P. 9

358

From: Wes Sheridan
To: Neil Stewart, Brad Mix
CC: Ruth Chandler
Date: 11/23/2011 11:33 AM
Subject: Re: Letter to Philip

Very well done Brad,
Thanks.....please send it off and copy me for my file.
Wes.

-----Original Message-----

From: Brad Mix
To: Wes Sheridan <WJSHERIDAN@gov.pe.ca>
Neil Stewart <NMSTEWART@gov.pe.ca>
Creation Date: 11/23 11:13 am
Subject: Letter to Philip

Are you comfortable with sending the revised letter below to Philip ?

Let me know.
Brad

Hi Philip,

It was good to see you again in PEI two weeks ago. We enjoyed our meeting with you which gave us a lot to consider. The prospect of bringing Simplex to PEI and thereby laying the foundation of what we hope will become a financial transactions hub is truly exciting. We are interested in taking this discussion further. We also note the need for speed.

Innovation PEI is extremely interested in working with Simplex however the transaction that was described is different than our typical programming support for business attraction. Although the structure of the business is not yet finalized, the establishment of a local company in PEI making an investment into Simplex is a structure that is highly recommended. We understand your interest that the local company is able to clearly demonstrate its connection to the PEI Government in order for your large customers to see that the company has a strong and committed partner. You also understand our need for the local company to demonstrate that it has a commitment to supporting growth in the local economy and has local representation on its board.

We are keen to explore the detail around this. To expedite this process, please provide us with a business plan and supporting financials based on your thoughts as to how such a company would look over the next three years.

Also, you mentioned that Simplex is examining the feasibility of a near-shore presence in North America to support your existing customers, including HSBC and RBS. Obviously the possibility that those financial institutions (and others) may decide to 'route' activity through a PEI operation based on your presence here would also be significant. These factors will be closely and positively considered when the application is made.

So as far as next steps are concerned:

1. McInnis-Cooper will contact us on the subject of a suitable corporate structure for a local company to be established. This aspect of our discussions need not take long – you will need to make sure that the organization is transparent enough for your customers to see the ultimate 'shareholder' in the form of government, and we will need to see that the company is 'locally populated'. In the first instance, I would imagine the simpler the better.

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2. Simplex will provide Innovation PEI with a business plan which can be modified to relate to how 'Simplex PEI' might look.
3. Simplex will provide Innovation PEI with additional commentary on how Simplex's presence here could provide further value in the form of job creation by third parties.
4. Innovation PEI / Ministry of Finance will provide a decision as to whether or not it will provide investment funding to the local company.

We noted your desire to execute this transaction quickly and Innovation PEI will work diligently to support your efforts.

We look forward to working on the next steps of this engagement with you.

Sincerely,

Brad Mix
Senior Director

Sep. 20. 2019 9:39AM

No. 0949 P. 11

360

From: Wes Sheridan
To: Brad Mix
Date: 11/24/2011 1:57 PM
Subject: Re: Meeting Follow-up

Thank you Brad!
 Wes.

-----Original Message-----

From: Brad Mix
To: pwalsh@simplexconsulting.com
CC: Melissa MacEachern <mamaceachern@gov.pe.ca>
 Nell Stewart <NMSTEWART@gov.pe.ca>
BCC: Wes Sheridan <WJSHERIDAN@gov.pe.ca>
Creation Date: 11/24 12:57 pm
Subject: Meeting Follow-up

Hi Phillip,

Sorry for the delay in getting back to you after our meeting a couple of weeks ago. There was a lot to digest but the prospect of bringing Simplex to PEI and thereby laying the foundation of what we hope will become a financial transactions hub is truly exciting. We are interested in taking this discussion further. We also note the need for speed.

Innovation PEI is extremely interested in working with Simplex however the transaction that was described is different than our typical programming support for business attraction. Although the structure of the business is not yet finalized, the establishment of a local company in PEI making an investment into Simplex is a structure that is highly recommended. We understand your interest that the local company is able to clearly demonstrate its connection to the PEI Government in order for your large customers to see that the company has a strong and committed partner. You also understand our need for the local company to demonstrate that it has a commitment to supporting growth in the local economy and has local representation on its board.

We are keen to explore the detail around this. To expedite this process, please provide us with a business plan and supporting financials based on your thoughts as to how such a company would look over the next three years.

Also, you mentioned that Simplex is examining the feasibility of a near-shore presence in North America to support your existing customers, including HSBC and RBS. Obviously the possibility that those financial institutions (and others) may decide to 'route' activity through a PEI operation based on your presence here would also be significant. These factors will be closely and positively considered when the application is made.

So as far as next steps are concerned:

1. McInnis-Cooper will contact us on the subject of a suitable corporate structure for a local company to be established. This aspect of our discussions need not take long – you will need to make sure that the organization is transparent enough for your customers to see the ultimate 'shareholder' in the form of government, and we will need to see that the company is 'locally populated'. In the first instance, I would imagine the simpler the better.
2. Simplex will provide Innovation PEI with a business plan which can be modified to relate to how 'Simplex PEI' might look.
3. Simplex will provide Innovation PEI with additional commentary on how Simplex's presence here could provide further value in the form of job creation by third parties.
4. Innovation PEI / Ministry of Finance will provide a decision as to whether or not it will

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provide investment funding to the local company.

We noted your desire to execute this transaction quickly and Innovation PEI will work diligently to support your efforts.

We look forward to working on the next steps of this engagement with you.

Sincerely,

Brad Mix
Innovation PEI

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Wes Sheridan - Re: letter from Keith laslop

From: Wes Sheridan
To: Chris LeClair
Date: 9/5/2012 10:30 PM
Subject: Re: letter from Keith laslop

Hey Chris,

Let's address it to me, with cc's to Al Roach and Cheryl Paynter.....that will lead into a conversation between us.

Thanks, Wes.

>>> Chris LeClair <chris@policyintel.ca> 05/09/2012 10:47 AM >>>

Wes, any advice as to whom the letter from Kelth Laslop to the province should be directed:

- (1) You as Minister responsible for gaming
- (2) Al Roach as Minister responsible for Innovation and Advanced Learning/Cheryl Paynter?

What do you think?

Chris



P O L I C Y
I N T E L

PUBLIC AFFAIRS SOLUTIONS
FOR ATLANTIC CANADA

Chris LeClair
Principal

118 Sydney Street, 2nd Floor
Charlottetown, PE CIA 1G4

mobile: 902.514.0629
fax: 902.892.3300
www.policyintel.ca

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Page 1 of 2

Wes Sheridan - RE: Letter re: payment processing in PEI

363

From: "Keith Laslop" <keith@laslop.co.uk>
To: WJSHERIDAN@gov.pe.ca
Date: 10/1/2012 10:35 PM
Subject: RE: Letter re: payment processing in PEI

Wes - I'm heading to Spain in the next couple weeks - any chance you were planning to go to EIG in Barcelona? If so would love to catch up.

If you're not attending, but there is anything Newcourt can do to progress things in PEI (the feedback we've received from potential customers has been overwhelmingly positive - high demand for this solution) just let me know.

Kind regards

Keith - 416 873 1847

From: Wes Sheridan [wjs Sheridan@gov.pe.ca]
Sent: Thursday, September 06, 2012 5:16 PM
To: Keith Laslop
Subject: FW: Letter re: payment processing in PEI

Got it Keith!!

Thank you very much.....

Wes.

>>> "Keith Laslop" <keith@laslop.com> 9/6/2012 1:08 PM >>>
First one bounced back as undeliverable - trying again.

k

From: Keith Laslop [keith@laslop.co.uk]
Sent: Thursday, September 06, 2012 12:00 PM
To: 'wjs Sheridan@gov.pe.ca'
Subject: Letter re: payment processing in PEI

Mr. Sheridan - please find the attached letter with our proposal to the government of Prince Edward Island.

Kind regards
Keith

Statement of Confidentiality

Sep. 20. 2019 9:40AM

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Page 2 of 2

This message (including attachments) may contain confidential or privileged information intended for a specific individual or organization. If you have received this communication in error, please notify the sender immediately. If you are not the intended recipient, you are not authorized to use, disclose, distribute, copy, print or rely on this email, and should promptly delete this email from your entire computer system.

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Sep. 20. 2019 9:40AM

No. 0949 P. 16

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SCHEDULE "B"

385

Documents that are or were in the possession, control or power of the Government and the Defendants that the Government and the Defendants object to producing on the grounds of privilege.

1. **Communications between the Government and the Defendants, or the agent(s) of the Government and the Defendants, and legal counsel.**
2. **Communications between the Government and the Defendants, or the agent(s) of the Government and the Defendants, and others for the purpose of seeking legal advice.**
3. **Invoices from legal counsel to the Government and the Defendants, or the agent(s) of the Government and the Defendants, which reveal legal advice, requests for legal advice, and steps taken for the dominant purpose of this litigation.**
4. **Communications between the Government and the Defendants, or the agent(s) (including legal counsel) of the Government and the Defendants, and others for the dominant purpose of this litigation.**
5. **Notes of the Government and the Defendants, and/or the agent(s) of the Government and the Defendants (including legal counsel), made for the dominant purpose of this litigation.**
6. **Notes, research, memoranda and/or other work product of legal counsel and their staff, all prepared for the dominant purpose of this litigation or in connection with the seeking of legal advice.**
7. **Documents over which third parties claim solicitor-client privilege and no waiver for production in this litigation has been received by the Government and the Defendants or the agent(s) of the Government and the Defendants.**
8. **Documents prepared on the advice, and/or the instruction of legal counsel, for the dominant purpose of this litigation.**
9. **Documents obtained from the Government and the Defendants, or the agent(s) of the Government and the Defendants, by an investigator under Part 4 of the *Securities Act*, R.S.P.E.I. 1988, c. S-3.1, and subject to section 36(1) of the *Securities Act*, R.S.P.E.I. 1988, c. S-3.1.**

Sep. 20, 2019 9:40AM

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SCHEDULE "C"

366

Documents that were formerly in the possession, control or power of the Government and the Defendants, but are no longer in the possession, control or power of the Government and the Defendants.

1. There may be emails that were formerly in the possession, control or power of Rory Beck and the Government that are no longer in the possession, control or power of Mr. Beck and the Government. There are emails sent and received by Mr. Beck that are in the possession, control or power of the Government and they have been produced in Schedule "A". When an individual is no longer employed by the Government, a request form is delivered to Information Technology Shared Services ("ITSS"), which authorizes ITSS to remove access by the individual to the network and software programs of the Government, including their email account. The email account is capable of restoration by ITSS within 365 days. ITSS received a request form and removed the email account for Mr. Beck on October 10, 2012. The account was not restored within 365 days.
2. There may be emails that were formerly in the possession, control or power of Chris LeClair that are no longer in the possession, control or power of the Mr. LeClair and the Government. There are emails sent and received by Mr. LeClair that are in the possession, control or power of the Government and they have been produced in Schedule "A". When an individual is no longer employed by the Government, a request form is delivered to ITSS, which authorizes ITSS to remove access by the individual to the network and software programs of the Government, including their email account. The email account is capable of restoration by ITSS within 365 days. ITSS received a request form and removed the email account for Mr. LeClair on November 2, 2011. The account was not restored within 365 days.
3. There may be emails that were formerly in the possession, control or power of Melissa MacEachern and the Government that are no longer in the possession, control or power of Ms. MacEachern and the Government. There are emails sent and received by Ms. MacEachern that are in the possession, control or power of the Government and they have been produced in Schedule "A". When an individual is no longer employed by the Government, a request form is delivered to ITSS, which authorizes ITSS to remove access by the individual to the network and software programs of the Government, including their email account. The email account is capable of restoration by ITSS within 365 days. ITSS received a request form and removed the email account for Ms. MacEachern on October 21, 2013. The account was not restored within 365 days.

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A

Ms. Karen Rose,
Information Commissioner
J. Angus MacLean Building
P.O. Box 2000, Charlottetown
PE C1A 7N8

140 Plug Street
Malpeque, PE
C0B 1M0

October 2, 2018

Re: Request for Assistance

Dear Ms. Rose,

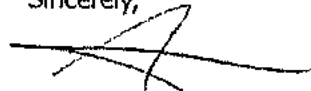
I am the President of Capital Markets Technologies (CMT) and I have significant concerns how a number of requests for government records submitted under the *Freedom of Information and Protection of Privacy (FOIPP) Act* in 2014, were handled by the PEI government. My concerns predate your appointment, effective June 22, 2015, so I am requesting guidance from you on how to proceed to both obtain all the records initially sought, as well as file a complaint.

I am bringing these concerns to your attention now, as I have only recently received new information during the last few months which clearly shows that claims made stating that "no records existed" with a number of these FOIPP requests were false. A number of these Access Request responses were signed by Neil Stewart, who worked on the e-gaming file. Although there are numerous examples that records do exist, I will provide just a few at this time.

In the spring of 2014, Capital Markets Technology hired a private investigator, Bruce MacDonald, to help in the search for relevant documents in a bid to clear our reputation from slanderous comments and false accusations of impropriety being made in the PEI Legislature and media by government members of the PEI Legislative Assembly. Mr. MacDonald did his due diligence by collecting public documents and interviewing key individuals involved. His work led to several FOIPP Requests in the Spring of 2014.

I understand that the normal time period indicated within the FOIPP Act allowing a review of a response from the head of a government department by the Information Commissioner has long-since expired for these Access Requests, however, as I mentioned above, I am now convinced that these requests were intentionally manipulated and mishandled. I am requesting your assistance in clarifying what formal means are available to me to address this matter.

Sincerely,



Paul Maines, President
Capital Markets Technologies

Appendix "A"

E-gaming Meeting at the Premiers Office

(File # EX-2014-03)

Request: *"Copies of the Calendar meetings on February 9th and February 10th, 2012 for the Premier, Chief of Staff and the Clerk of Executive Council including attendance in a meeting relating to gaming file"*

Result: *Search Executive Council Office and Office of the Premier has failed to retrieve any records relating to the subject of your request.*

Signed By: Janice Pettit

Evidence of Tampering

Mr. MacDonald acquired an email between the President of Simplex, Philip Walsh, and Government Project Manager for the E-gaming Initiative (as identified by the Auditor General), Gary Scales.

On January 30, 2012 Scales wrote to Walsh: "We're going to have our round table next week on **Thursday and Friday (Feb 9-10). The Premier** and Mi'kmaq Chiefs will also be taking in part of the session."

Mr. MacDonald interviewed some of the people who attended that round table meeting who confirmed to him that former Premier, Robert Ghiz, did in fact attend that meeting.

In an email dated Feb. 10, 2012 from Chris LeClair (to Gary Scales, Kevin Kiley, Ron Mackenzie, Steve MacLean, Wes Sheridan, Neil Stewart, Mike O'Brien and Philip Walsh), Chris LeClair attached the "Briefing notes and Presentation Outline" prepared for the meeting with the Premier and Chiefs. The presentation is titled "Meeting- Premier's Office".

Note: At the time of this meeting, Steve MacLean was the Clerk of Executive Council so a search for relevant records should have produced this email and attached presentation.

Appendix B

Chris LeClair and Brad Mix

(Ref: #DIAL-2014-05)

Request: *"Copies of all emails and correspondence (including phone calls/messages) Between Brad Mix and Chris LeClair on any files related to gaming, gaming corporations, McInnis Cooper and/or financial services sector related business(es) located on PEI January 1, 2011 - June 30, 2012."*

Result: *"No Records Found"*

Signed By: Neil Stewart

Evidence

The 2016 Auditor General Report confirmed that Chris LeClair and Brad Mix were key players for government in e-gaming.

Mr. MacDonald had in his possession an email that made reference to their communication with one another, and one that showed they were in the same meeting. In the January 18, 2017 Public Accounts meeting, the Auditor General confirmed that e-mails belonging to then Chief-of-Staff, Chris LeClair, were ordered deleted by former Premier Robert Ghiz, in contravention of the Archives and Records Act. Nonetheless, emails which Chris LeClair sent to Brad Mix should have been found at Innovation and Advanced Learning and produced.

In an email dated Jan. 30, 2011 from Paul Jenkins, he references his meeting both Chris LeClair and Brad Mix. Jenkins states, ***"I meant (sp) Chris yesterday over FMT. He has lined up a meeting with Brad Mix.*** Brad will approve you doing an analysis for FMT."

Note: An email from Paul Jenkins to Brad Mix and Chris LeClair dated March 4, 2011 Subject: Co-Investment Fund should have been produced. This was a venture capital fund set up to finance e-gaming companies relocating to PEI and encourage local investors.

Appendix "C"

Paul Jenkins and Brad Mix

(Ref: #DIAL-2014-06)

Request: *"Copies of all emails and correspondence including phone records, PINS, documentation between Brad Mix and Paul Jenkins... January 1, 2011 to September 30, 2012"*

Result: *"No Records Found"*

Signed By: Neil Stewart

Evidence

The 2016 Auditor General Report confirmed that Brad Mix was one of the key players for government in E-gaming. Paul Jenkins was the CMT representative for all e-gaming communications among government officials.

Mr. MacDonald acquired multiple emails between Brad Mix and Paul Jenkins and was aware of many meetings between the two men. Brad Mix was involved with Jenkins and LeClair recruiting Virgin Gaming to PEI. He also worked on recruiting companies to PEI such as Basalt, Zanagen and Silver Clear, to name a few.

In particular, an email from Paul Jenkins to Brad Mix and Chris LeClair dated March 4, 2011 Subject: Co-Investment Fund. This was a venture capital fund set up to finance e-gaming companies relocating to PEI and encourage local investors. Clearly Jenkins, Mix and LeClair were all at the same meeting.

In an email dated June 2, 2011 Brad Mix forwarded an email to Paul Jenkins about recruiting local companies to work with a UK e-gaming company. Neil Stewart was cc'd on the original email with Brad Mix and appears to be working as part of the recruiting team.

Note: Multiple emails between Paul Jenkins and Brad Mix exist and were obtained by CMT via a non-government source. These records should have been retained within the Department of Innovation and Advanced Learning and produced in this FOIPP request.

Appendix "D"

Neil Stewart and Edward Curran

(Ref: #DIAL-2014-08)

Request: *"Copies of all emails, meeting appointments, correspondence including phone records, PINS between Neil Stewart and Edward Curran, Scotia MacLeod April 1, 2008-present."*

Result: *"No Records Found"*

Signed By: Neil Stewart

Evidence

Given their apparent working relationship it is not reasonable to believe that no records existed between Neil Stewart and Edward Curran during the six-year period from 2008 to 2014. It is also suspicious and concerning that Neil Stewart signed off on an Information Request that was seeking his own records, indicating no requested records existed.

Furthermore, in his response letter, Stewart indicates that no records "In relation to gaming...." were located; however, the request submitted did not restrict communications between Neil Stewart and Edward Curran to "gaming," but was comprehensive in nature, e.g.,

B

Wes Sheridan - Re: Fwd: Final Report

From: Wes Sheridan
To: Chris LeClair; Patrick Mason
Date: 5/11/2010 10:46 PM
Subject: Re: Fwd: Final Report
CC: Ruth Chandler; Virginia Flood

Thanks Pat,

I'll be tied up Monday with Finance meetings but will be around the rest of the week. By copy of this note to Cheryl and Virginia, we'll ask our offices to contact you for a time that would work for us all.

Take care,
 Wes.

>>> Patrick Mason <patrick@techmarkets.ca> 6/11/2010 11:06 am >>>
 Wes,

I sent this to Chris yesterday realizing just now I did not copy you. I have completed my research and can debrief you on the findings/next steps at your convenience.

Pat
 patrick mason | phone: 506.471.2985 |
 fax: 253.322.1882 | e-mail:patrick@techmarkets.ca

Begin forwarded message:

From: Patrick Mason <patrick@techmarkets.ca>
Date: June 10, 2010 9:23:00 AM ADT
To: Chris Leclair <cleclair@gov.pe.ca>
Subject: Final Report

Chris,

I have completed my research and would like to de-brief you/Wes and then submit the final report.

Because I was not able to discuss the facts with the Credit Union directly (Wes felt it was better not to) I mystery shopped them instead.

The story is pretty short and sweet at this moment as the Credit Union has outsourced the payment gateway and credit card processing/risk function to First Data. The local piece of the action would amount to some minor banking fees, a trailer fee for hosting the account which could be quite lucrative, and of course the value of the deposits on the books.

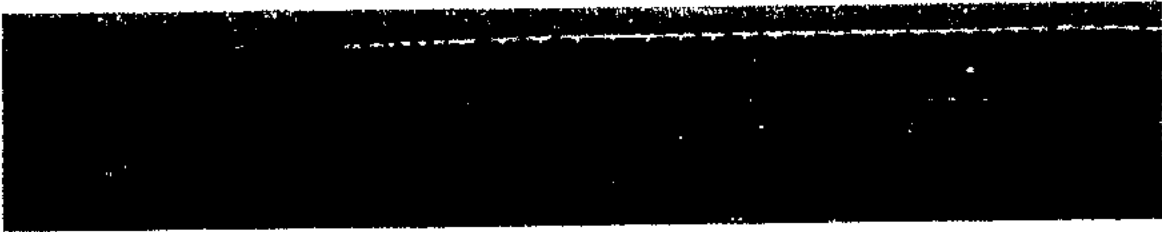
I can explain more when we chat, are you around next week?

Pat
 patrick mason | phone: 506.471.2985 |
 fax: 253.322.1882 | e-mail:patrick@techmarkets.ca

C

Opportunity Assessment

Province of PEI
June 2010



Provided by Tech Markets; June, 2010

Introduction

The Province of PEI is contemplating providing data centre and payment processing services to on-line gaming companies operating in a licensed environment on PEI. This document provides an initial, high level opportunity assessment that describes what aspects of both technology and financial infrastructure support could be provided using PEI companies.

The report contains two sections; the first addresses technology infrastructure, the second, financial. Each section first describes the high level requirements, and then discusses which ones could be provided locally.

Technology

Requirements

Online gaming companies typically house their operations within secure data centers. Below is a list of the key components of these centres;

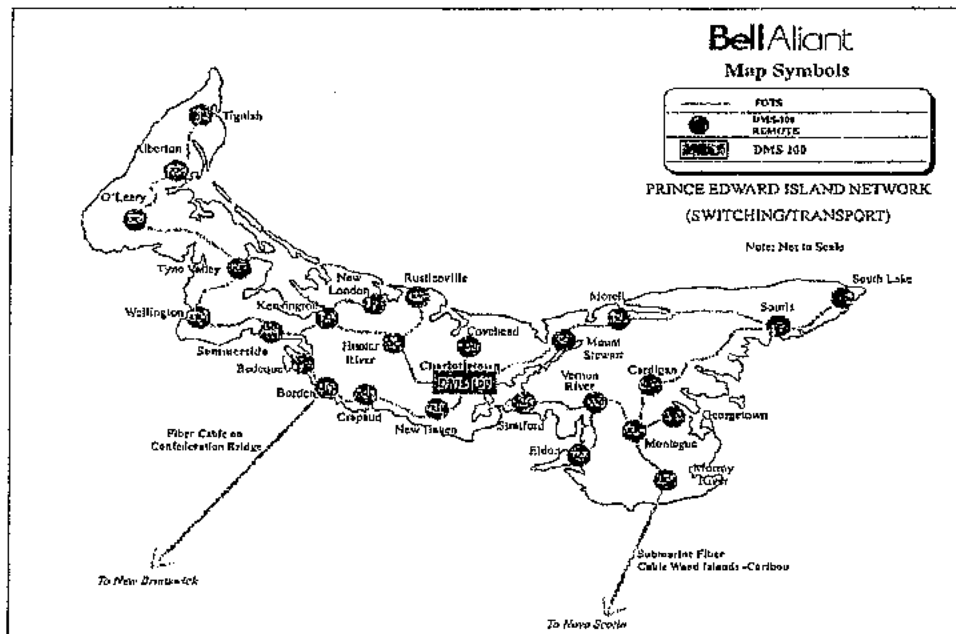
- Software
 - Gaming
 - This software is customer facing and is what provides players "the game" such as Texas Hold'em, poker, and bingo.
 - Support
 - This software is internally facing and provides "back office" capabilities such as security, customer account management, accounting and other financial processing.
 - System Management
 - This software is technology focused and is used to support the computer systems, networks and other technical items required to operate the gaming platform. Items here would include capacity monitoring, network management, security, communications, system health monitoring and so forth.
- Hardware
 - All of the above capabilities are provided via software applications that need to be housed on computers in order to function. These computers vary in form and function and act as "hosts" for their software "tenants" providing the core storage, processing and communications capabilities required for them to operate. Depending on the size of the gaming operation these can number in the hundreds.
- Network
 - Network or "transit" capacity refers to the communication lines that run into and out of the data centers and transport all of the information pertaining to the operation including customers game play and internal administration processes such as security, customer account management, financial processing of payments and so on.
- Premises
 - Due to the specific nature of the above infrastructure, data centers have been specially configured to house and support these platforms. Their core functions are;
 - Provide safe, secure environments to physically house equipment and personnel
 - Provide 7/24/365 source of power to run equipment
 - Provide 7/24/365 network availability to ensure that the gaming sites are operational around the clock, 365 days/year.

Opportunity

Prince Edward Island would be able to host a data centre. All the components mentioned above; hardware, software, network and premises could be managed locally.

- Hardware and software can be ordered, shipped, configured (in PEI or somewhere else) and installed in a PEI data centre.
- Premises can be constructed in a number of Island locations with abundant, relatively low cost commercially land available.
- Labour, it is possible that some gaming operators may require their own personnel to run the specialized aspects of their operation such as security, however, these skills could be transferred to skilled IT personnel locally once the appropriate training was provided. The type and number of these jobs would vary entirely depending on the gaming company involved. However, with the general trend in a number of industries to provide more and more services from data centers, it would be possible, once established, to market data centre services to other companies as demand grows.
- Network capacity is available on PEI via high capacity fibre optic links recently put in place by Bell Aliant. Given this infrastructure, Bell Aliant could easily provide dedicated capacity of 100Mb to a data centre facility immediately, with the ability to scale up to 1Gb given 30 days notice. While capacity beyond 10Gb is achievable, it would require additional design and engineering time of 4 - 6 months with funding. This capacity would allow us to meet virtually any near term requirements from one or more gaming operators, and scale up quickly to meet demand. Importantly, back-up links are also in place ensuring that if one goes down, the data centre operations will not be affected as business can continue to operate via the back up link. Figure 1 below graphically depicts this network including the location of redundant links.

Figure 1 Bell Aliant Network



Importantly, Bell Aliant has confirmed that it has space available for rent in its own local data centre located in downtown Charlottetown, which is also operating on much the same infrastructure that would be used in any data centre established in PEI. This fact creates several important opportunities for PEI;

- It would lower the costs and risks for a gaming operator to transfer some of their operations here as it significantly lowers the fixed costs and overheads associated with creating a full data centre.
- It would establish a basis to run "trials" or "proof of concept" type arrangements wherein gaming operators could "kick the tires" of running their operations from PEI. Because the data centre uses the exact same network, local personnel, and other aspects of infrastructure services, it would provide an easy way to invite gaming operators to establish shorter term, less risky commitments with the Province which may lead to larger, longer term arrangements.

On-Line Payments Processing

Requirements

With respect to banking and financial operations support, gaming operators would require the following infrastructure.

- Merchant Account
 - A merchant account is a bank account that accepts Visa, MasterCard and other credit card deposits on behalf of a merchant, a gaming operator in this case. Merchant accounts are typically hosted by a financial institution that has a good relationship with the merchant. The reason for this is that Visa and MasterCard rules state that customers can deny transactions are legitimate, forcing a chargeback. While these charge backs are typically passed directly on to the merchant, it is the financial institution providing the merchant account who is ultimately responsible. Due to the nature of on-line game play, these charge backs are higher than in other industries making the trust relationship between a gaming operator and its merchant bank a critical aspect of the company's operations.
 - The cost or fees associated with merchant accounts are largely captured in the discount rate. The discount rate is the fee charged by banks to merchants for accepting deposits (online or otherwise) and is calculated as a percentage of gross sales. A key determinant of this rate is charge backs, as such a key cost driver of a gaming operator's processing costs is their discount rate.
- Payment Gateway
 - On-line payments such as those that would originate from online game play require special processing and handling capabilities in order to properly transfer funds from game players to operators via their respective financial institutions. A gateway's primary function can be broken down as follows:
 - Receive payment requests via the gaming website.
 - Route the payment request to the appropriate financial institutions to confirm availability of customer funds.
 - Act as a clearing house to settle amounts owed and owing between customer and gaming operators, respectively.
 - Manage any anomalies such as charge-backs described above as well as other out of the ordinary transactions.
 - Provide reporting to key stakeholders such as the merchant bank, and gaming operators.

Opportunity

The opportunities for PEI to participate in this aspect of gaming operations are limited to providing traditional banking functions. Specifically, no PEI owned financial institutions (i.e. The Credit Union) provide payment gateway or merchant account services. In an interview with the Metro Credit Union on June 1, 2010 the Credit Union confirmed that these services have been outsourced to First Data Corporation out of the US several years ago. Moreover, First Data Corporation has outsourced the technical aspects of online payment processing, including ownership and management of the technology to PSIGate which is a wholly owned subsidiary of Home Capital Group Inc., a publicly held company out of Toronto Ontario. The only benefit the Credit Union receives from merchant account activity is a residual or trailer fee for referring the account to First Data for service. All other aspects of payment processing including the discount rate, payment gateway fees and so forth do not accrue to the Credit Union.

Importantly, this means that PEI may not be in a position to offer a competitive discount rate to a gaming operator in order to lower their cost of doing business locally. First Data sets that rate, and may or may not offer island based gaming operators a lower discount rate, despite the fact that they would be operating in a legal jurisdiction.

Fees associated with on-line payment processing are as follows:

- Merchant Acquirer (First Data in this case)
 - Discount rate
 - 2-10+% depending on the industry. Gaming would typically be at the more costly end of the spectrum.
- Payment Gateway (PSI Gate fees shown below)
 - Installation fee \$150
 - Payment processing fee
 - \$0.25/transaction regardless of volume
 - Monthly maintenance fee
 - \$39

D

Wes Sheridan - Special Project Meeting

From: Kiley, Kevin
To: mike.obrien@mcinnescoper.com; gary.scales@mcinnescoper.com; BDMIX@gov...
Date: 10/7/2011
Time: 9:00 AM - 11:00 AM
Subject: Special Project Meeting
Place: Melhnes Cooper Boardroom
Attachments: rfc2445.ics

When: Friday, October 07, 2011 9:00 AM-11:00 AM (GMT-04:00) Atlantic Time (Canada).
Where: Melhnes Cooper Boardroom

Note: The GMT offset above does not reflect daylight saving time adjustments.

Wes Sheridan - Special Project Weekly Meeting

From: Kiley, Kevin
To: mike.obrien@mcinniscooper.com; gary.scales@mcinniscooper.com; BDMIX@gov...
Date: 10/21/2011
Time: 3:00 PM - 5:00 PM
Subject: Special Project Weekly Meeting
Place: McInnes Cooper Boardroom
Attachments: rfc2445.ics

When: Occurs every Friday effective 10/21/2011 until 5/18/2012 from 3:00 PM to 5:00 PM (GMT-04:00) Atlantic Time (Canada).
Where: McInnes Cooper Boardroom

Wes Sheridan - Special Project Team Meeting

From: Kiley, Kevin
To: mike.obrien@mcinnescooper.com; gary.senies@mcinnescooper.com; BDMIX@gov...
Date: 10/24/2011
Time: 5:00 PM - 6:30 PM
Subject: Special Project Team Meeting
Place: McInnes Cooper Boardroom
Attachments: rfc2445.ics

When: Monday, October 24, 2011 5:00 PM-6:30 PM (GMT-04:00) Atlantic Time (Canada).
Where: McInnes Cooper Boardroom

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*****~~

Wes Sheridan - Special Project Weekly Meeting

From: Kiley, Kevin
To: mike.obrien@mcinnescooper.com; gary.scales@mcinnescooper.com; BDMIX@gov...
Date: 11/4/2011
Time: 3:00 PM - 5:00 PM
Subject: Special Project Weekly Meeting
Place: McInnes Cooper Boardroom
Attachments: rfc2445.ics

When: Occurs every Friday effective 10/21/2011 until 5/18/2012 from 3:00 PM to 5:00 PM (GMT-04:00) Atlantic Time (Canada).
Where: McInnes Cooper Boardroom

~~*****K*****~~

E



RECORDED
INFORMATION
MANAGEMENT



MANAGING ELECTRONIC MAIL

March 2007

Public Archives and Records Office of PEI

MANAGING ELECTRONIC MAIL
Guidelines for the Government of Prince Edward Island

1. Scope

The application of these guidelines is referenced to section 2.1 of the *Archives & Records Act* and applies to all records in the custody, or under the control of a public body, including court administrative records.

“Public body” means a Government department or a board, commission, committee, office foundation, agency, tribunal, task force, council, association or other body, incorporated or unincorporated, all the members of which, or the members of the board of directors or management of which,

(i) are appointed by order of the Lieutenant Governor in Council, or

(ii) if not so appointed or specified, in the discharge of their duties are public officers or employees of the Government,

(iii) work under contract and the supervision of an officer or employee of the Government,

and includes the Office of the Chief Electoral Officer and a body designated as a public body pursuant to clause 20 (c).

2. Intent and Purpose

The intent of these guidelines is to provide and explain requirements, guidelines and best practices for electronic mail (e-mail) messages that meet the criteria for records as defined by the *Archives & Records Act* of P.E.I. (Cap A-19).

These guidelines have two purposes. First, they are intended to assist government employees to complying with Prince Edward Island public records' law in their use of e-mail. Second, the guidelines promote best practices and provides suggestions that facilitate the effective capture, management, and retention of electronic messages as public records.

3. Introduction

Electronic mail systems, commonly called e-mail, are becoming the communications method of choice for many public officials and employees in Prince Edward Island. E-mail messages are often used as communication substitutes for telephone messages as well as to communicate substantive information previously committed to paper and transmitted by more traditional methods. This combination of communication and record creation/ keeping has created ambiguities on the status of e-mail messages as records.

The management of e-mail systems touches on nearly all functions for which a government department is dependent on record keeping: privacy, administration, vital records management, administrative security, audits, accessibility, and archival storage. The importance of managing e-mail messages and systems properly is the same as for other records keeping systems -- to ensure compliance with Prince Edward Island laws concerning the creation of, retention of, and access to public records.

Government departments that use electronic mail have an obligation to make employees aware that e-mail messages, like paper records, must be retained and destroyed according to established recorded information management procedures.

4. Definitions

"E-mail systems" are store-and-deliver software systems that transport messages from one computer user to another. E-mail systems range in scope and size from a local area network that shuffles messages to users within a department or office, to a wide area network e-mail system which carries messages to users in multiple locations, to Internet e-mail that has a national and international range.

"E-mail messages" are electronic documents created and sent or received by a computer system. This definition applies equally to the contents of the communication, the transactional information, and any attachments associated with such communication. Thus, e-mail messages are similar to other forms of communicated messages, such as correspondence, memoranda, and circular letters.

E-mail system backups are backups that are run on a nightly basis for disaster recovery purposes only. These backups provide a recovery mechanism for the complete recovery of the e-mail system in the unlikely circumstance that a catastrophic event occurs to the system. Unlike file server backups, which provide disaster recovery protection as well as the ability to recover individual files, individual e-mail messages are not recoverable.

5. Legal Requirements

The *Archives & Records Act* (Cap A-19) defines:

"Records" include any correspondence, memorandum, book plan, map, drawings, diagram, pictorial or graphic work, photographs, film, microform, sound recording, video tape, electronic data, machine readable record, and any other documentary material, regardless of physical form, characteristics or media on which it is stored and any copy thereof"

Clearly, an e-mail message is a document or item created or received by a public office. Whether the e-mail serves to document the organization, functions, policies, decisions, procedures, operations or other activities are the deciding factor as to its status as a record. This is true of any communication, whether electronic or paper.

E-mail messages that meet the criteria of the definition of a record must be scheduled and retained for the appropriate time period before disposition.

6. Retention and Scheduling Requirements

The Archives Act defines the procedures and authority to be used to establish the retention and disposition of records.

"Records retention and disposition schedules" means a comprehensive description and classification of all records of a public body with a plan governing the life cycle of the records from creation or receipt to disposition or permanent preservation.

"All records retention and disposition schedules are subject to the approval of the **Public Records Committee.**"

The Archives & Records Act stipulates that records of the provincial government cannot be destroyed or permanently removed from government custody without the development of records retention and disposition schedules or a one-time destruction order, approved in writing by the Public Records Committee.

E-mail itself is not considered a record series or category. It is a means of transmission of messages or information. Like paper or microfilm, e-mail is the medium by which this type of record is transmitted. Just as a department cannot schedule all paper or microfilm records together under a single retention period, a department cannot simply schedule e-mail as a record series. Rather, retention or disposition of e-mail messages must be related to the information they contain or the purpose they serve. The content, transactional information, and any attachments associated with the message are considered a record (if they meet the Archives Act criteria). The content of e-mail messages may vary considerably, and therefore, this content must be evaluated to determine the length of time the message must be retained.

Simply backing up the e-mail system onto tapes or other media or purging all messages after a set amount of time is not an appropriate strategy for managing e-mail.

In requiring that records not be destroyed without proper authority, the legislation recognizes that those who work and make decisions in the public interest must be accountable for their actions and decisions. The saving of records is an essential component of accountability.

A policy on retaining official records of the Government of Prince Edward Island has been adopted and is found in Treasury Board Manual, Section 5, "Recorded Information Management Policy". This policy provides advice on how official records, including electronic records, should be maintained, controlled, and described in a way that allows them to be efficiently accessed, retrieved and interpreted. The Policy states that Senior Records Managers and Records Management Liaison Officers are responsible and accountable for the records in their care.

Guidelines and Best Practices for Managing E-mail

1. Which e-mail messages are records?

Some examples of e-mail messages that are usually considered records would include:

- policies and directives
- correspondence and memoranda related to official business
- work schedules and assignments
- drafts of documents that are circulated for comments or approval
- documents that initiate, authorize or complete a business transaction
- agenda and minutes of meetings
- final reports and recommendations

2. Which e-mail messages are not considered records?

Some examples of messages that would not be considered records include:

- phone message slips transmitted through e-mail
- copies or extracts of documents distributed solely for convenience of reference
- personal messages and announcements not related to the department's business
- announcements of social events
- copies of announcements, policies etc. distributed as information to a large number of people. i.e., A smoking policy is not treated as a record by everyone who receives it. The originating office must keep the record.
- messages received from listservers or other Internet sources for information purposes only.

3. What are the storage options?

There are three options for filing and retaining e-mail messages. They are:

- file within existing e-mail system
- design and maintain an electronic document management system
- print to paper and store the paper in the existing manual file system

Each of these methods have their strengths and weaknesses. For reasons discussed below, the recommended method is the design and maintenance of an electronic document management system. In all these scenarios it is important to incorporate metadata considerations into your storage decision. (In this context metadata refers to information such as sender, recipient, date, routing, subject lines, system information and manuals, etc.)

A. File within existing e-mail system: - On-line Storage

On-line storage maintains the full functionality of the e-mail message, and allows users to recall the message at any time for reference or responding. **A disadvantage of on-line storage is the potential costs and effects of storage on the performance of the e-mail system.** This is the least attractive of all the options. Current e-mail software in the Government of Prince Edward Island does not act as a record keeping system.

B. Electronic Document Management System - Near-line Storage

Near-line storage is defined as storage of e-mail messages, metadata, and attachments **in an electronic record keeping system.** This type of storage requires that the message, metadata, and attachments be removed from the on-line e-mail system and stored in an electronic format. For example, a message stored in an on-line e-mail system can be saved to a file on a local hard drive. The file should be stored in a format that is compatible with department operations, and filed according to filing practices established by the department and/or user.

Near-line storage allows the user to maintain a moderate amount of functionality, in that e-mail messages stored near-line can be retrieved and referenced electronically. In storing e-mail messages, metadata, and attachments, users should be careful to maintain a filing system which is consistent with established practices. This includes filing sequences as well as the use of naming conventions for computer files. In addition, users may want to consider "protecting" such records from alteration.

C. Print to paper system - Off-line storage

Off-line storage is defined as the storage of e-mail messages, metadata, and attachments outside of an electronic record-keeping environment. The clearest example of this type of storage is to **simply print out an e-mail message to paper,** with its contextual information and attachments in place, for filing within existing filing systems in the department. Although this is not a long term solution, it may be necessary until the retention capabilities of information technologies have been further developed.

Off-line storage dramatically reduces the functionality, in that e-mail messages are no longer searchable or retrievable in electronic form. However, off-line storage offers users the ability to integrate the filing of records in e-mail systems within existing hard-copy filing systems in departments. Any e-mail messages, metadata, and attachments stored off-line should be done in a manner consistent with department practice.

Off line Storage - Basic principles:

1. **If the e-mail message is a record - print it and file the printed copy like any other record, then you may delete the e-mail**
2. **If the e-mail message is not a record - delete it as soon as you have finished using it. If you want to keep it for information, print it or save it on your hard-drive and delete the e-mail version**

When you receive a record by e-mail

Print it and file it in the departmental filing system the same way you would file a paper document on the same subject. Even when you plan to edit the record and return it by e-mail, print out the version you receive. It is necessary to preserve each stage of the transaction and until an electronic system is developed, filing a paper copy is the most reliable method.

When you send a record by e-mail

If you only send records by e-mail occasionally, just send yourself a blind copy (by putting your own name in the BC box) and then print the message when you get it back. This way, all the transmission information about time, dates etc., which is part of the record, is preserved. If you just printed the message before you sent it, you would lose that information.

If you send a lot of records by e-mail, use the following procedure once a day.

1. From the main e-mail menu double click on **Out Box** to bring up a list of all messages sent that day.
2. Hold down the control key and highlight the messages you want by clicking on them.
3. Select the **File** option from the heading line of the outbox screen.
4. Select **Print** from the pop-up box that appears. Another pop-up box will appear containing all the candidates for printing.
5. To print all the messages in the last box plus the attachments, hold down the shift key and click on the first and last items in the list. All the items will be highlighted. Select **Print** and they will all print.

Employees should be responsible for classifying messages they send or receive according to content, the department's folder/directory structure and established records series.

4. What about record copies?

E-mail users should be aware that e-mail messages are often widely distributed. Determining which individual maintains the record copy of the message, i.e. the original message that must be retained per the retention schedule, is vital to e-mail management. If the holder of the record copy is not identified and aware of his/her responsibility, the department may find that no one retains the message or that everyone retains the message. Neither of these scenarios is appropriate.

For example, government policy documents which are transmitted to multiple recipients via an e-mail system need not be maintained by each recipient beyond his or her need for this information if record copy responsibility is established so that the record is maintained by some office or agent for its established retention period. In this example, a logical record copy responsibility rests with the creator of the policy document. Prompt deletion of duplicate copies of e-mail messages from an e-mail system makes the system whole much easier to manage and reduces disk space consumed by redundant information.

Generally speaking, the individual who sends an e-mail message should maintain the record copy of the message. However, the varied uses and wide distribution of e-mail may result in many exceptions to this rule that will have to be dealt with internally.

5. What about Distribution Lists?

If you send to a "distribution list" (not a listserver, but a specified list of individuals), you must also keep a copy of the members of that list for as long as you are required to keep the message itself. It is of little value to know that the "Security Alert!" notice went to "Swat Team 7," without knowing whether Arnold S. received the message. Nicknames present a similar problem.

6. What about Subject Lines?

Fill in the subject line on your e-mail both to help your recipient identify and file messages, and to help you file your OUT box messages that must be retained for some period. Subject lines should be as descriptive as possible.

The following are some examples of poor and good subject lines for the same message.

Poor or confusing subject lines

"helpful info"
"report"
"minutes"
"important"
"today?"
"news"

Better, descriptive subject lines

"contact info"
"Quarterly financial report"
"Jan 99 board minutes"
"revised admin. procedures"
"lunch plans today?"
"new department head appointed"

7. What about Access?

A major challenge for department records management liaison officers is to guarantee that records maintained in electronic information systems are accessible and usable for the entire length of the retention period. Rapid changes and enhancements to both hardware and software compound this challenge. As many e-mail systems have limitations in storage space that cause operational problems when messages are stored in the system beyond a specific period (such as sixty or ninety days), procedures must be in place to transfer records from the e-mail system to another electronic record keeping system to meet retention requirements.

Messages should be maintained in a format that preserves contextual information (metadata) and that facilitates retrieval and access.

The system should allow deletion of messages once their retention periods expire.

Beyond this generic challenge of technological change, there are more mundane, but equally critical steps that must be in place to ensure that records created by e-mail systems can be located and retrieved when required. A central step is a system of standardized naming conventions and filing rules within the e-mail systems.

E-mail messages should be indexed in an organized and consistent pattern reflecting the ways in which records are used and referenced. Records maintained electronically, including e-mail messages, have an advantage over conventional "hard copy" document filing systems in that indexing for multiple access points is relatively simple and inexpensive, provided an effective indexing framework is in place. Planning records indexing and retrieval points is time well spent. Unnecessary time needed to retrieve electronic records is not productive staff time, and is an annoyance to the public as well.

Messages should be stored in a logical filing system that is searchable by multiple data elements.

8. What about Responsibility?

Roles and responsibilities of department personnel should be clearly defined. Employees must understand and carry out their role in records management and departments must ensure compliance with government procedures and P.E.I. law. Unauthorized users should not be able to access, modify, destroy or distribute records.

Department administrators, individual employees, records managers, information technology (IT) managers and server administrators share responsibility for managing electronic records. Departments should clearly identify the roles of each, adopt procedures, train staff and monitor compliance on a regular basis. The creator or recipient should make decisions regarding messages. The department should take appropriate measures to preserve data integrity, confidentiality and physical security of e-mail records.

Summary

For more information on recorded information management, contact your department's Records Management Liaison Officer, the Provincial Records Manager or the Public Archives & Records Office.

| Records Management Liaison Officer | | Department |
|------------------------------------|----------|---|
| Doyle, Janet | 368-4837 | Agriculture/ Fisheries, Aquaculture & Rural Dev. |
| MacLeod, Carol | 368-4520 | Auditor General's Office |
| Thompson, Donna | 368-5270 | Communities, Cultural Affairs & Labour |
| Eldershaw, Leah | 368-5876 | Innovation & Advanced Learning |
| MacGillivray, Diana | 368-4687 | Education & Childhood Dev. |
| Long, Rose | 368-4301 | Executive Council |
| Spence, Kelli | 368-5320 | Environment, Energy & Forestry |
| Wright, Pamela | 620-3347 | Health |
| Connolly, Ellen | 368-4851 | Office of Attorney General |
| Littlewood, Laura | 620-3458 | OAG - Supreme Court |
| Murnaghan, Tammy | 620-3534 | Social Services & Seniors |
| Smith, Diane | 368-4201 | Provincial Treasury |
| MacDonald, Connie | 368-5493 | PT-Taxation & Property |
| Montgomery, Debbie | 836-3605 | PEI Grain Elevators Corp. |
| McGarry, Janet | 368-4206 | Public Service Commission |
| Cotton, Vicki | 368-6628 | Tourism/Communications PEI |
| Belaire, Betty | 368-7775 | Transportation & Public Works |
| Power, Chris | 368-4091 | Worker's Comp. Board |

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Recorded Information Management Policy of Prince Edward Island, EC1998-33.
<http://iis.peigov/gov't/tboard/manual/index.html>

November 18, 2019

Karen A. Rose
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
Charlottetown, PE C1A 7N8

Re: Final Submission for Brad Mix Deleted Emails

Dear Commissioner Rose,

As I prepare to file my final submission on this review, I believe we are finally getting closer to the truth. This process started when I sent you a letter dated October 2, 2018 (Appx. A) requesting assistance re: Brad Mix records. The back and forth written exchanges with the Public Body since that time, with them assuring both you and me that more refined searches for Responsive Records were happening in good faith, there were no emails of Brad Mix as I alleged. There were no emails to search for, and the Public Body knew that the whole time. The fact that they did not disclose that information is not only a violation of the *Access to Information and Privacy Act*, but evidence of a cover-up.

The fact is, Brad Mix's emails were illegally deleted. FULL STOP. It is now confirmed that: Brad Mix has **0 emails** in his inbox from June 13, 2010 to March 19, 2012, and Brad Mix has **0 emails** in his sent box from June 12, 2010 to April 20, 2012. If those emails had been deleted in accordance with *Treasury Board Directives*, the departmental RIM policy for managing electronic records, and the *Records and Archives Act*, then there would be documents tracking and verifying all of that – there aren't.

This isn't a case of some missing email records from a phone upgrade or a simple technical issue. Qualified technicians I have spoken to about this matter tell me that the selective deletion of such a specific time period within an archive, with records remaining in that archive both before and after that specific time period, simply isn't technically-possible without user intervention. The only logical explanation is that those records were deleted intentionally using a "scorched earth" strategy to cover up the E-gaming activity. Two years of missing records in the archive that was on the Government server is a very important part of this issue; however, another equally-important issue is what happened to Brad Mix's second "archive" covering this same two-year time period.

It appears Brad Mix created a separate archive that was clearly intended to hide documents from disclosure for what government officials have referred to in emails as the 'secret gaming file'. It is likely that Mix created that second archive to accommodate that 'secret' file. As the Auditor

General noted in her Report: "*Government was the primary player in the E-gaming initiative. However, the initiative operated outside government's regular control framework and information was not accessible for review.*" (my emphasis).

That second archive belonging to Brad Mix is now gone in its entirety, along with any records it may have contained. From the ITSS incident report we learned that the technicians indicated that they didn't have "remote access" to that second archive. Why didn't Brad Mix provide that access to them?

When the archiving project was carried out in 2014-15, only one archive was identified and located for Mr. Mix. That archive was brought into the centralized location that resulted from standardization. Exactly when that happened wasn't noted by the Public Body, but it appears it was shortly after Mix reported to ITSS that he had discovered that he had missing email records. It was noted that the archiving project was completed in 2015, so at most it was a matter of months.

There was, therefore, a relatively short period of time in 2015 after March – from the date the ITSS incident report was filed to the Archive Standardization of Mix's email archives – when someone completely removed that "second" archive. We know this because Ms. McGrath-Gaudet stated that at the time of the incident report: "*All of Mr. Mix's archived GroupWise records from that point forward were directed to the copy of the original archive or the other archive.*" In the same letter it states that the Acting Director, *Business Infrastructure Services* reports that when the archiving project was carried out, only one archive was identified and located for Mr. Mix.

This does not appear to be simply a case of Brad Mix discovering some missing "emails" – someone deleted an entire archive belonging to Brad Mix. Something that was illegal if not done by someone authorized to do so as per Record Management policy and procedure (e.g., Records Management Liaison Officer).

Where was this second archive of Brad Mix? Who had access to it? How did it suddenly go missing? Ms. McGrath-Gaudet stated in that same July 10, 2019 letter that no one within ITSS knew who created Brad Mix's archives – the really important question still needing to be answered is who deleted that second archive (the one that ITSS didn't have remote access to when Mix filed that incident report), and whether that's where Mix was keeping his secretive e-gaming emails and attachments?.

The precise "period" of time for the missing records and Mix's involvement in the e-gaming and financial transaction platform initiative overlap exactly – this can't be a coincidence. It's important to look at the full factual matrix of this situation to see the motive for e-gaming record deletion.. Mix's emails are missing from June 13, 2010.

June 10, 2010, Patrick Mason email chain with LeClair and Sheridan

“Chris ... I have completed my research and would like to de-brief you/Wes and then submit the final report. Because I was not able to discuss the facts with the Credit Union directly (Wes felt it was better not to) I mystery shopped them instead...” (Appx. B)

June 10, 2010, Patrick Mason/Tech Markets Opportunity Assessment

“The Province of PEI is *contemplating providing data center and payment processing services to on-line gaming companies* operating in a licensed environment on PEI. This document provides an initial, high level opportunity assessment that describes what aspects of both technology and financial infrastructure support could be provided using PEI companies.” (Appx. C)

Brad Mix has no emails starting three (3) days after this report until March 2012. In her special assignment on the E-gaming initiative the Auditor General presents a timeline stating: “**On February 24, 2012** -the Government informs of its decision to stop E-gaming initiative.”

To be clear, Brad Mix has no emails in his inbox before March 19, 2012 and in his sent box before April 20, 2012. Mix’s emails were destroyed for the entire PEI E-gaming file duration. Mix was a key player in the e-gaming initiative and is a named defendant in the lawsuit. Although Mix’s emails are missing, some of his Groupwise Calendar entries were provided. These government records verify that Mix was not only attended e-gaming committee meetings, but he was also invited to what Mr. Kiley, lead of e-gaming file, called “Special Project Meetings.” (Appx D)

Once again, I want to point out the similarities of the E-gaming to the deleted government records case in the Ontario Government around the same time. Both were Government scandals that cost taxpayers millions of dollar. Both were cover-ups, and part of the cover-up was the destruction of government records. On April 11, 2018, the Ontario Superior Court per Justice *Lipson in R. v. Livingston* stated:

“29 Mr. Livingston's attempt to **interfere with the proper functioning of parliamentary democracy** is, in my view, the most serious aggravating factor in this case. I agree with the following observations made in the Crown's written submissions: "In directing the wiping of the hard drives, Livingston's aim was to deprive the public of access to information it **was entitled to have through legislation (Freedom of Information and Protection of Privacy Act)** and through the legislative committee process. Accountability is fundamental to the functioning of the democratic process. Further, depriving a legislative committee of information it is entitled to, directly interferes with the parliamentary process.”;

and

“64 These decisions serve to reflect the duty of the judiciary to treat cases involving interference with the democratic process as extremely serious in order to maintain public confidence in the integrity of parliamentary institutions. Those institutions form the foundation of our free and democratic system and require the court's protection. This is particularly so in the sentencing of this defendant who **abused a position of power and engaged in criminal conduct to promote the interests of the governing party at the expense of democratic accountability.**”

The only questions we are left with now in PEI are: “Who deleted Brad Mix’s emails?” And, “Did someone order them deleted, and if so, who?”

E-gaming didn't happen without lawyers and accountants signing off on false invoices, grants etc. to avoid Treasury Board rules and other laws. Secrecy was not only expected from all the participants, deliberate measures were taken to ensure it, including removing documents from the normal channels within government including Treasury Board. The matter of that deleted “second archive” belonging to Brad Mix warrants further investigation.

Egregious Behavior

The fact that Brad Mix was helping in the search while knowing the entire time that the emails were deleted, and that he had accordingly filed an incident report around those emails, only makes this entire year long process even more egregious.

Subsection 8(1) of the FOIPP Act states: “*The head of a public body shall make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.*” This did not happen.

The Public Body was fully aware that Mix’s documents were deleted and were available in other email accounts since 2014. I have previously submitted exhibit 112 from my January 2019 Affidavit filed in the Supreme Court of PEI that illustrates the timeline.

On May 13, 2014, Bruce MacDonald filed a FOIP for: “*Copies of all emails and correspondence including phone records, PINS, documentation between Brad Mix and Paul Jenkins January 1, 2011-September 30, 2012*” (Jan aff exh 112-Appx A).

On June 2, 2014 Neil Stewart, then Deputy Minister of Innovation, signed the FOIP decision letter stating: “**no records have been retrieved in relation to your request**” (Jan aff exh 112-Appx B)

Mr. Stewart knew exactly all the players involved. As you know, once I became aware that Brad Mix’s emails were in fact deleted, I filed additional FOIP requests for Mix’s emails in the inbox of Neil Stewart. To show Mr. Stewart’s involvement, one email from FOIP 2019-096 EGTC makes it loud and clear.

On May 16, 2011 John Eden emailed Neil Stewart and cc Brad Mix with Subject FMT. Eden wrote: "Neil ... **this company is part of the secret egaming file** ... they are the visa processing guys from the UK. Am [sic] attaching a note from them..."

The Auditor General has already pointed out that Mr. Stewart was involved in the deletion of former Deputy Minister MacEachern's emails. From Public Accounts Feb 15, 2015:

Mr. Myers: Thank you. I just want to go back to a couple of things because I was trying to clarify the deletion of some of the emails and I know it was confirmed by you the last time you were here that Robert Ghiz ordered the deletion of Chris LeClair's email account. Can you give me the date that that order went?

Jane MacAdam: I don't know that I have that with me. I'm not sure when the actual records were deleted, if that's what you mean.

Mr. Myers: Yeah, no, **when the order went**.

Jane MacAdam: When the order went?

Mr. Myers: can you give me the **date for the order that Neil Stewart sent for Melissa?**

Jane MacAdam: That was October 21st, 2013.

Systems Were In Place

In the Public Body letter to you dated July 15, 2019, an answer was provided to your question: "*At the times the archives were created, what policies/procedures were in place relating to retention of email records?*"

The Public Body answered: "Section 5 (Recorded Information Management) of Treasury Board's Policy and Procedure Manual is the applicable **records information management policy that has been in place since 1998**. This policy applies to public records (including emails) created by employees for Government departments and Crown Corporations."

In March 2007, *Public Records and Archives Office* of PEI released an additional Recorded Information Management directive titled "*Managing Electronic Mail*." (Appx. E)

"In requiring that records not be destroyed without proper authority, **the legislation recognizes that those who work and make decisions in the public interest must be accountable for their actions and decisions**. The saving of records is an essential component of accountability."

"A policy on retaining official records of the Government of Prince Edward Island has been adopted and is found in Treasury Board Manual, Section 5, 'Recorded Information Management Policy'. This policy provides advice on how official records, including electronic records, should be maintained, controlled, and described in a way that allows them to be efficiently accessed, retrieved and interpreted. **The Policy states that Senior**

Records Managers and Records Management Liaison Officers are responsible and accountable for the records in their care."

In closing, Brad Mix and those Government Officials who conspired to delete records and hid the fact records were deleted "*must be held accountable for their actions and decisions*" as the above-noted policy states. I appreciate your efforts to find the truth throughout this process.

Regards,

Paul Maines

PRINCE EDWARD ISLAND

COURT OF APPEAL

Proceedings commenced at

Charlottetown

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