



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Disclosure Log Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

Application Details	
Ref. No.	CMTEDDFOI 2023-431
Date of Application	13 December 2023
Date of Decision	30 January 2024
Processing time (in working days)	27
Fees	Waived
Decision on Access	Full Release
Information Requested (summary)	List of the tenders for contracts over \$200,000 for 1/1/2022 to 13/12/23 where the final decision maker was the Director-General, Chief Executive Officer or Head of Service or anyone acting in those roles.
Publication Details	
Original application	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision notice	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Documents and schedule	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision made by Ombudsman	N/A
Additional information identified by Ombudsman	N/A
Decision made by ACAT	N/A
Additional information identified by ACAT	N/A

From: [REDACTED]
To: [CMTEDD FOI](#)
Subject: FOI request for tender final decision maker list
Date: Wednesday, 13 December 2023 10:38:02 AM

Good morning CMTEDD FOI team,

On behalf of [REDACTED] I write to request, under the *Freedom of Information Act 2016*, copies of the following documents:

1. A list of the name of all tenders for the last two years (1/1/2022 – 31/12/22 and 1/1/23 – 13/12/23) where the final decision maker was the Director-General, Chief Executive Officer or Head of Service.

Thanks,





ACT
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Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2023-431



FREEDOM OF INFORMATION REQUEST

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 13 December 2023, in which you sought access to the following:

"1. A list of the name of all tenders for the last two years (1/1/2022 – 31/12/22 and 1/1/23 – 13/12/23) where the final decision maker was the Director-General, Chief Executive Officer or Head of Service."

On 13 December 2023 you were sent a clarification request to ask whether your request included *"Kathy Leigh or any person acting in her position for the last two years (1/1/2022 – 31/12/22 and 1/1/23 – 13/12/23)."* On 14 December 2023 you confirmed your request included *"... both Kathy Leigh as Head of Service and anyone who was acting in her position as head of service as well ..."*

On 18 December 2023, you were contacted to further clarify the scope of requested information. On that date you confirmed your agreement to the following interpretation of the scope as follows:

*" - the "final decision maker" is the person who executed the contract
- contracts captured in scope are those executed over \$200K where the DG/CEO/HoS signed the contract"*

On 3 January 2024 you were sent a revised scope that combined the above clarification and interpretation information, noting that you were advised that if we did not receive a response from you by 10 January 2024, this would be taken to be the revised scope. We have not received any response from you to date. Therefore, the **revised scope** of requested information is as follows:

"1. A list of the name of all tenders for the last two years (1/1/2022 – 31/12/22 and 1/1/23 – 13/12/23) where the final decision maker was the Director-General (DG), Chief Executive Officer (CEO) or Head of Service (HoS), which includes Kathy Leigh as Head of Service and or anyone who was acting in her position as HoS."

When interpreting this scope, it is noted that:

- *the “final decision maker” is the person who executed the contract;*
- *contracts captured in scope are those executed over \$200K where the DG/CEO/HoS signed the contract; and*
- *this request relates to Chief Minister, Treasury and Economic Development Directorate (CMTEDD) only, not all other Directorates.”*

Authority

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

Under section 40 of the Act, CMTEDD is required to provide a decision on your access application by 2 February 2024.

Decision on access

Searches were completed for relevant information within scope of your request and one (1) document was identified that falls within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of the document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant full access to this relevant document. The documents released to you are provided as **Attachment B** to this letter.

Material considered

In reaching my access decision, I have taken the following into account:

- the Act;
- the information that falls within the scope of your request, including correspondence with you on the interpretation of the scope of your request.

Public Interest Test under schedule 2 of the Act

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interest lies. As part of this process, I must consider factors favouring disclosure and non-disclosure. Section 17 of the Act sets out the public interest test to be applied.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when ‘used in a statute, the term [public interest] derives its content from “the subject matter and the scope and purpose” of the enactment in which it appears’. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Taking into consideration the information contained in the document found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the ‘public interest’.

There were no Schedule 1 factors relevant to your requested information.

Schedule 2:

Factors favouring disclosure (Section 2.1(a))

(i) promote open discussion of public affairs and enhance the government's accountability.

(ii) contribute to positive and informed debate on important issues or matters of public interest.

(iv) ensure effective oversight of expenditure of public funds

Having considered the factors identified as relevant in this matter, I consider that disclosure of this information could reasonably be expected to contribute to positive and informed debate and analysis regarding the ACT procurement and accountability for public spending. In addition, release of this information could reasonably be expected to promote discussion about public spending and economic value to the Territory.

I am satisfied that these factors favouring disclosure carry significant weight. However, these factors are to be balanced against the factors favouring nondisclosure.

Factors favouring nondisclosure (Section 2.2(a))

- There are no factors under this section favouring nondisclosure.

Having applied the test outlined in section 17 of the Act and noting the pro-disclosure intent of the Act, I am satisfied that full release of information within the scope of your request is not contrary to the public interest to release. Under the public interest test, the factors favouring disclosure outweigh the factors for nondisclosure. Full access to this document will ensure the intent of the Act is met and will provide you with access to the information as requested held by CMTEDD within the scope of your request.

Additional Information

Please note that the contracts referred to in your requested scope of information at Folio 1 are publicly available, and published on the ACT Government's Contracts Register, which can be found on Procurement ACT's website, here:

<https://www.procurement.act.gov.au/registers/contracts-register>

Charges

I have waived fees associated with your access application because under section [REDACTED] of the Act, [REDACTED] is not to be charged a fee for an access application.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log. Your personal contact details will not be published. You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi/disclosure-log-2023>

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is provided to you, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Allara House
15 Constitution Avenue
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact the Information Access Team by telephone on 02 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,



Katharine Stuart
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

30 January 2024



ACT
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Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST

Reference NO.

Revised scope:

CMTEDDFOI 2023-431

"1. A list of the name of all tenders for the last two years (1/1/2022 – 31/12/22 and 1/1/23 – 13/12/23) where the final decision maker was the Director-General (DG), Chief Executive Officer (CEO) or Head of Service (HoS), which includes Kathy Leigh as Head of Service and or anyone who was acting in her position as HoS.

When interpreting this scope is noted that:

- *the "final decision maker" is the person who executed the contract;*
- *contracts captured in scope are those executed over \$200K where the DG/CEO/HoS signed the contract; and*
- *This request relates to Chief Minister, Treasury and Economic Development Directorate (CMTEDD) only, not all other Directorates."*

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1	List of contracts	undated	Full release		Yes
Total No of Docs						
1						

Signed By Territory Officer	Date Signed by Territory Officer	Contract Link	Contract Number	Contract Title
Stuart Hocking PSM	31/10/2022	2022.2913444.210	2022.2913444.210	Actuarial Services for Multiple Areas
Stuart Hocking	20/03/2023	GS0447186	GS0447186	Credit Rating Agency Engagement Agreement
Stuart Hocking	24/03/2023	GS30224344	GS30224344	Whole of Government Banking Services Agreement
Stuart Hocking	20/09/2023	PICM0000663	PICM0000663	Actuarial Services for the Territory's Defined Benefit (CSS/PSS) Employer Superannuation Liabilities