



**Government
of South Australia**

TRS19D3164

Hon Stephen Mullighan MP
Member for Lee
Unit 1, 62 Semaphore Road
SEMAPHORE SA 5019

Treasurer
Level 8
State Administration Centre
200 Victoria Square
Adelaide SA 5000
GPO Box 2264
Adelaide SA 5001
DX 56203 Victoria Square
Tel 08 8226 1866
treasurer.dtf@sa.gov.au

lee@parliament.sa.gov.au

Stephen
Dear Mr Mullighan

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (FOI Act), dated 12 November 2019.

Your application seeks access to:

"All minutes, briefings and correspondence titled 'Government Services – Compliance Review – Premier and Cabinet Circular 27' as described on the Objective document management system, between 23 February 2019 and 12 November 2019."

The legislative prescribed timeframe to determine this application has expired and is now deemed to have refused you access to all documents relevant to your application. I refer to my letter dated 19 November 2019 where I sought additional time to make my determination.

The purpose of this letter is to advise you of my determination. An extensive search was conducted within this office. A total of 1 document was identified as answering the terms of your application.

I grant you access in full to 1 document; a copy of which is enclosed.

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information* (PC045), the Department of Treasury and Finance is now required to publish a log of all non-personal information released under the *Freedom of Information Act 1991*.

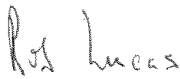
In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

As I am determining this application as Principal Officer, Section 29(6) of the Act does not provide for an internal review. If you are dissatisfied with my determination you are entitled to exercise your rights of external review with the Ombudsman.

Alternatively, you can apply to the South Australian Civil and Administrative Tribunal. If you wish to seek a review, Section 39(3) of the Act states you must do so within 30 calendar days of receiving the determination.

If you require any further information, please contact Vicky Cathro on 8226 9769.

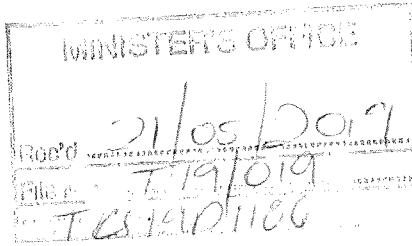
Yours sincerely

A handwritten signature in black ink that reads "Rob Lucas". The signature is written in a cursive style.

Hon Rob Lucas MLC
Principal Officer

29 February 2020

MINUTE



MINUTES forming ENCLOSURE

File DPC18/1220
Doc No B361493

To The Treasurer

COMPLIANCE REVIEW – PREMIER AND CABINET CIRCULAR 27

Timing: ROUTINE — for Information

Recommendations/Issues: It is recommended that you:

- Note the outcomes of a compliance review undertaken by Government Services in relation to Premier and Cabinet Circular 27 – Contract Disclosure (PC027); and
- Note the advice provided regarding ongoing management of public authority compliance.

Noted

Hon Rob Lucas MLC
Treasurer

25/5 /2019

Key Points:

- PC027 requires all public authorities subject to the *Public Finance and Audit Act 1987* to publicly disclose "eligible and significant contracts" involving government expenditure and the sale of government assets.
- "Eligible contracts" are defined as contracts between public authorities and the public sector, involving:
 - The expenditure of public funds of \$500,000 or more and less than \$4 million; and
 - The expenditure of public funds of less than \$25,000 for consultants.
- "Significant contracts" are defined as contracts between public authorities and the private sector, involving
 - The expenditure of public funds of more than \$25,000 for consultants;
 - The provision of industry assistance of \$200,000 or more;
 - The expenditure of public funds of \$4 million or more; and
 - Asset sales of \$1 million or more.

- For eligible contracts only summary details need to be disclosed on the SA Government's Tenders and Contracts website; for significant contracts disclosure also requires a PDF version of the contract to be uploaded.
- The policy prescribes that Chief Executives are responsible for ensuring contract information is publicly disclosed on the Tenders and Contracts website. Chief Executives may exclude the publication of certain contracts under specified circumstances, however the reasons for non-disclosure must be published on the website.
- In addition to PC027, as of 2017-2018, all General Government Sector agencies and entities are required to report on consultants and contractors engaged in their annual reports, as specified in Premier and Cabinet Circular 13 – Annual Reporting Requirements (PC13). Furthermore, public authorities that are defined in the *State Procurement Act 2004* and have a procurement authority greater than \$220,000 must report annually to the State Procurement Board (Board) on in-scope contracting activity.
- In late 2018, at the request of your Office, Government Services undertook an across government review of public authority compliance with the provisions of PC027. For the 2017-18 financial year, this review sought information from Chief Executives in relation to:
 - Contractor and consultant engagements;
 - The contracting activity included in the public authorities' annual report submitted to the Board (where applicable); and
 - Registers containing information on contracts executed in 2017-2018 that were in-scope for PC027, but not captured by annual reporting for PC013 or the Board's Procurement Reporting Policy. This includes construction contracts, grant agreements and other funding arrangements.
- The table below provides a summary of the findings from the review, following assessment of the responses provided by public authorities.

Element	Volume/ Percentage
Number of contracts in scope for disclosure	1,435
% of contracts correctly disclosed	68.7%
% of contracts not correctly disclosed	29.7%
% of contracts where disclosure status not determined	1.6%

- In relation to the 29.7% of contracts not correctly disclosed, the table below breaks this data down by public authority:

Agency	Number	%
DPTI	99	23.2%
Department of Education	63	14.8%
DPC	57	13.4%
DIS (previously DSD)	55	12.9%
PIRSA	51	12.0%
Adelaide Cemeteries Authority	24	5.6%
DEW	17	4.0%
Auditor Generals	10	2.3%
SAHT	9	2.1%
Legal Services Commission	8	1.9%

Agency	Number	%
SAPOL	6	1.4%
Defence SA	5	1.2%
DTF	4	0.9%
Courts Admin Authority	3	0.7%
Urban Renewal Authority	3	0.7%
State Opera	3	0.7%
Adelaide Festival Centre Trust	2	0.5%
SAFC	2	0.5%
DCP	1	0.2%
Local Government Financing Authority	1	0.2%
SA Health	1	0.2%
AGD	1	0.2%
DHS	1	0.2%
Total	426	100.0%

- Based on the advice from agencies, remedial action has or is being taken to correctly disclose these 426 contracts on the SA Tenders and Contracts website (if required). Government Services intends on undertaking a sample review to confirm that this is the case shortly.
- Unfortunately, the responses provided by public authorities do not identify the value of the contracts that were not disclosed/correctly disclosed. This information will be sought as part of future compliance reviews.
- In general, public authorities highlighted the following reasons for contracts not being correctly disclosed within the required timeframes:
 - Lack of awareness in business units regarding the requirements of PC027;
 - Misinterpretation of the requirements for disclosure. For example, there were a number of cases where summary information about a contract was published on the SA Tenders and Contracts Website, however an actual copy of the contract itself was not uploaded; and
 - Issues with not disclosing grants (e.g. industry assistance) in several public authorities due to these contracts being managed outside of agency procurement units.
- The Department of Premier and Cabinet (through Cabinet Office) has recently initiated a review of PC027 and is seeking input from Government Services (and others) as part of this review. Government Services will discuss opportunities with Cabinet Office to ensure that specific disclosure requirements are clearly articulated (where applicable) to reduce the potential of misinterpretation and there is a focus on enabling greater awareness across agencies regarding their obligations.
- In the lead up to the State Procurement Board's annual reporting process in 2019, assurance will again be sought from public authorities about their compliance with PC027. This will involve a targeted review of agency compliance using a similar methodology to the review summarised in this briefing, with a focus on those agencies with higher levels of non-compliance.

- In the longer term, the increased use of technology to capture procurements from the outset and in turn automate the disclosure process should improve compliance and transparency. Agencies, including DTF, are progressively implementing procurement and contract management systems which support more automated disclosure.



Mark Carey
A/EXECUTIVE DIRECTOR
GOVERNMENT SERVICES

20 May 2019

Contact Officer:	Mark Carey
Telephone:	0402 749 607
Email address:	Mark.carey@sga.gov.au

Supported / Not Supported



David Reynolds
CHIEF EXECUTIVE

Department of Treasury and Finance

Date... 20. 5. 19