



**ACT**  
Government

Major Projects Canberra

Our Ref: MPCFOI2024/19

schedule 2.2(a)(ii)

Via email: schedule 2.2(a)(ii)

Dear schedule 2.2(a)(ii)

## **FREEDOM OF INFORMATION REQUEST - MPCFOI2024/19**

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by Major Projects Canberra (MPC) on 13 August 2024 in which you sought access to:

*“Provide data on:*

- a) The number of conforming tender submissions*
- b) The average tender submission price (GST inclusive), and*
- c) The median tender submission price (GST inclusive) for the following tenders:*

*Garden City Stage 1B & 1C Superintendency (30992-RFT-003)*

*Emu Bank Design & Superintendency (30993-RFT-003)*

*Active Schools Construction Phase Services (39004-RFT-002)*

*Shea Street Construction Services (39058-RFT-001)*

*Footpath Maintenance & Civic Pavers Construction Phase Services (30991-RFT-001)*

*Active Travel Missing Link Design & Superintendency (30998-RFT-001)*

*Gungahlin Active Travel Design upgrades (30996-RFT-150.01)*

*BIF Active Travel Maintenance Superintendence (30865-RFT-301)*

*Yerrabi District Park Upgrade PAP Services (39007-RFT-001)*

*Garden City Cycle Route Stage 1A Superintendent (Torrens St) (30992-RFT-002)*

*Inner North Play Destination PAP Services (30942-RFT-002)*

*Acton Waterfront PAP Services (57809-RFT-003)*

*Goliath Court Stormwater Superintendence (30793-RFT-300)*

*Superintendent Services Mt Taylor Carpark, Sulwood Drive and Mannheim St*

*Intersection (30864-RFT-310)*

*Stromlo Playing Fields Detailed Design (57161-RFT-001)*

*Old Well Station Drive Design & Superintend (52318-NCT-001)”*

In accordance with section 40 of the Act, MPC is required to provide you with a decision on your access by 24 September 2024.

### **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.



### **Decision on Access**

My decision in relation to the information relevant to your request is summarised as follows:

- Full release of the number of conforming tender submissions, this information is available at Attachment A on the final page of this letter.
- Withhold the average tender submission price (GST inclusive).
- Withhold the median tender submission price (GST inclusive).

My access decisions are detailed further in the following statement of reasons.

### **Statement of Reasons**

In making my decision on disclosing any government information, I must identify all relevant factors in Schedule 1 and Schedule 2 of the Act and determine, on balance, where the public interest lies. In reaching my access decision, I have taken the following into account:

#### **Factors Favouring Disclosure in the Public Interest (Schedule 2, Section 1)**

- Schedule 2.1 (a)(i) – open of public affairs and enhance the government’s accountability,
- Schedule 2.1 (a)(iv) – ensure effective oversight of expenditure of public funds,
- Schedule 2.1 (a)(vii) – advance the fair treatment of individuals and other entities in accordance with the law in their dealings with the government.

The release of this information will inform the public of the number of applicants during the request for tender process who could satisfactorily meet the tender requirements for each of the aforementioned tenders. I am satisfied that these are relevant considerations favouring disclosure in this case, and in the spirit of enhancing open discussion, I afford them significant weight.

#### **Factors Favouring Non-Disclosure in the Public Interest (Schedule 2, Section 2)**

- Schedule 2.2 (a)(viii) – prejudice the economy of the Territory,

I place significant weight on the agencies right to withhold specificity surrounding tender submission price (average and median) as the release of this information could reasonably be expected to negatively impact the Territories economy in terms reduced competition. Additionally, the release of this information would place Territory entities at a disadvantage in negotiating with private sector entities on a commercial basis.

- Schedule 2.2 (a)(xiii) – prejudice the competitive commercial activities of an agency,

Further to the above, I have considered the competitive commercial activities of MPC. MPC as the ACT Government’s infrastructure delivery agency engages with commercial service providers to deliver vital infrastructure high value projects. Revealing the average and median tender submission prices you have requested would reasonably be considered to prejudice MPC’s ability to engage in competitive commercial activities.



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Given the necessity for MPC to engage in these competitive commercial activities and engage with commercial third parties to negotiate best value for money infrastructure on MPC's projects I give these factors significant weight. As the release of this information could reasonably be expected to diminish the MPC's bargaining power and ability to negotiate competitive commercial terms it is contrary to the public interest to release this information.

### **Charges**

I have decided to waive any charges in relation to this Freedom of Information access application.

### **Online publishing (Disclosure Log)**

Under section 28 of the Act, MPC 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 MPC Disclosure Log after three to ten working days after the date of the decision. Your personal contact details will not be published.

You may view the MPC's Disclosure Log at

<https://www.act.gov.au/majorprojectscanberra/about/freedom-of-information/disclosure-log>

### **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 published on MPC's Disclosure Log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601  
Via email: [actfoi@ombudsman.gov.au](mailto: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  
Level 4, 1 Moore St  
GPO Box 370  
Canberra City ACT 2601  
Telephone: (02) 6207 1740  
<http://www.acat.act.gov.au/>



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If you have any queries concerning the directorate's processing of your request, or would like further information, please contact me on (02) 6205 5288, or via email [MPCFOI@act.gov.au](mailto:MPCFOI@act.gov.au).

Please ensure you quote your reference number: **MPCFOI2024/19**

**schedule 2.2(a)(ii)**

Nikki Pulford  
Information Officer  
**Major Projects Canberra**  
04/09/2024



**Attachment A**

Full release of the number of conforming tender submissions

<b>Project/Contract</b>	<b>How many conforming tenders</b>
1. Garden City Stage 1B & 1C Superintendency (30992-RFT-003)	8 conforming tenders
2. Active Schools Construction Phase Services (39004-RFT-002)	7 conforming tenders
3. Shea Street Construction Services (39058-RFT-001)	6 conforming tenders
4. Footpath Maintenance & Civic Pavers Construction Phase Services (30991-RFT-001)	6 conforming tenders
5. Active Travel Missing Link Design & Superintendency (30998-RFT-001)	6 conforming tenders
6. Gungahlin Active Travel Design upgrades (30996-RFT-150.01)	8 conforming tenders
7. BIF Active Travel Maintenance Superintendence (30865-RFT-301)	4 conforming tenders
8. Yerrabi District Park Upgrade PAP Services (39007-RFT-001)	4 conforming tenders
9. Garden City Cycle Route Stage 1A Superintendent (Torrens St) (30992-RFT-002)	7 conforming tenders
10. Acton Waterfront PAP Services (57809-RFT-003)	4 conforming tenders
11. Goliath Court Stormwater Superintendence (30793-RFT-300)	5 conforming tenders
12. Superintendent Services Mt Taylor Carpark, Sulwood Drive and Mannheim St Intersection (30864-RFT-310)	5 conforming tenders
13. Emu Bank Design & Superintendency (30993-RFT-003)	Procurement process not yet complete
14. Inner North Play Destination PAP Services (30942-RFT-002)	3 conforming tenders
15. Old Well Station Drive Design & Superintend (52318-NCT-001)	3 conforming tenders
16. Stromlo Playing Fields Detailed Design (57161-RFT-001)	4 conforming tenders