

# NTAIC

## Freedom of information policy

### FINAL

#### Contents

1.0	Policy Statement.....	2
1.1	Purpose.....	2
1.2	Scope.....	2
1.3	Overview.....	2
2.0	Definitions.....	2
3.0	Responsibility.....	3
3.1	Responsibilities of all NTAIC staff.....	3
3.2	Responsibilities of the NTAIC FOI team.....	3
3.3	Responsibilities of Manager of area where FOI requested.....	3
4.0	Application.....	3
4.1	Meeting timeframes.....	3
4.2	Locating documents and providing them to the FOI team.....	3
4.3	Documents held by contracted service providers.....	4
4.4	Highly sensitive documents.....	4
4.5	Locating specific information stored in a database.....	4
4.6	Providing advice to the FOI team.....	4
4.7	Briefing stakeholders and managing issues.....	5
4.8	Internal consultation process prior to finalisation of a decision.....	5
5.0	Annual Review.....	5
6.0	Related Policies and Legislation.....	5
7.0	Version control.....	5
8.0	Approval.....	5

## 1.0 Policy Statement

The Northern Territory Aboriginal Investment Corporation (NTAIC) recognises the *Freedom of Information Act 1991* (FOI Act) provides members of the public with a legally enforceable right of access to documents held by the NTAIC, subject only to such restrictions as are reasonably necessary for the proper administration of the NTAIC.

### 1.1 Purpose

The purpose of this policy is to ensure NTAIC acts in accordance with Freedom of Information (FOI) requirements.

### 1.2 Scope

This Policy, in conjunction with the FOI Act, applies to all documents held by or on behalf of the NTAIC. This includes documents created or received by staff and contractors acting on behalf of the NTAIC. Documents in any format are covered, including emails and electronic data stored on databases, servers, and hard drives. Neither the FOI Act nor this Policy applies to documents created before 15 November 2022

### 1.3 Overview

The NTAIC is a body established to grow long term wealth and support Aboriginal economies in the Northern Territory, as a Commonwealth Corporate Entity under the *Freedom of Information Act 1991* ("the FOI Act"). Members of the public have a right of access to documents created or held by the NTAIC. This Policy aims to ensure compliance with the NTAIC's obligations under the FOI Act and promote a consistent approach to the handling of applications under that scheme.

The FOI Act provides exemptions which allow the NTAIC to refuse access to documents containing information which it is not in the public interest to disclose, including confidential information. Where the NTAIC (or another party contracting with the NTAIC) wants to keep the terms of a contract confidential, certain legislative requirements must be met before the FOI Act exemptions can be relied upon. The Policy also aims to ensure that contracts containing confidential terms are adequately safeguarded from disclosure under the FOI Act.

## 2.0 Definitions

For FOI purposes, a 'document' means any information in the NTAIC's possession. This includes:

- reports
- emails
- facsimiles
- memos
- file notes
- briefings
- computer records (e.g., documents that can be readily extracted from a database)
- photographs
- videos and CCTV footage
- 'post-it' notes
- diary notes
- minutes of meetings
- telephone messages
- text messages, including short message service and encrypted messages
- invoices and receipts
- draft documents
- audio recordings.

## **3.0 Responsibility**

### **3.1 Responsibilities of all NTAIC staff**

All staff have an obligation to assist the FOI team to enable the NTAIC to comply with its obligations under the FOI Act. Staff, other than those with FOI Delegated Authority, who receive FOI requests forward them promptly to the FOI team.

### **3.2 Responsibilities of the NTAIC FOI team**

The NTAIC has a centralised FOI decision-making model. The responsibility for making FOI decisions rests with the NTAIC's FOI team. The NTAIC Board has authorised staff of the FOI team to make FOI decisions on behalf of the NTAIC. The FOI team also makes decisions about whether to impose charges on an applicant for processing a request. Only authorised decision makers can make decisions on whether a document is exempt, or conditionally exempt under the FOI Act.

For a copy of the NTAIC's FOI authorisation instrument please contact the FOI team for further information. The FOI team makes decisions under the FOI Act, having regard to, and relying on, advice from relevant Managers on the nature and sensitivities of the content in the documents within the scope of the request. The FOI team undertakes consultation, where necessary, with third parties that may be affected by the release of requested documents.

The FOI team notifies NTAIC stakeholders of the receipt of significant FOI requests). The FOI team also liaises with the Executive regarding the FOI process, including the timing of release of decisions on access and documents falling within the scope of an FOI request.

### **3.3 Responsibilities of Manager of area where FOI requested**

The Manager must allocate appropriate resources to the processing of an FOI request. This includes meeting deadlines set by the FOI team for the provision of documents or advice in order to meet statutory timeframes.

## **4.0 Application**

### **4.1 Meeting timeframes**

The NTAIC has 30 calendar days from the date of receipt to process an FOI request. An extension of the 30-day timeframe can occur if there is a requirement for consultation with third parties. Further extensions can occur in certain circumstances. To ensure compliance with statutory timeframes, the FOI team must receive all relevant documents as soon as possible after they have been requested.

### **4.2 Locating documents and providing them to the FOI team**

To comply with the FOI Act, a thorough search for all relevant documents in the possession of the NTAIC must occur.

To ensure searches are reasonable and appropriate, the Manager must sign a Document Search Minute certifying the supply of all relevant documents and information to the FOI team.

Following receipt of an FOI request, the FOI team will identify those responsible for the subject matter of the request and who is responsible for locating and providing the FOI team with a copy of all documents relevant to the FOI request (or referring the FOI team to a more appropriate line area).

NTAIC Leadership should carefully read the request to identify its scope and form a view about the documents within scope. The FOI team encourages NTAIC Leadership to discuss the scope of the request (particularly

where the scope is ambiguous) before undertaking searches for the documents. There are opportunities to clarify scope with the applicant.

NTAIC must undertake all reasonable searches for hard copy and electronic documents relevant to the request. This will include searching all NTAIC electronic records management systems and all hard copy files, including those kept in off-site records storage if necessary. It includes draft versions of documents and attachments to documents.

NTAIC Leadership must not decline to produce a document to the FOI team on the basis that they consider the document exempt or contains sensitive material. It is the role of the FOI team to make decisions about whether a document, or part of a document, is exempt, or if a practical refusal reason exists under the FOI Act. The FOI decision maker will consult with the relevant NTAIC personnel and external third parties before making a final decision in relation to an FOI request.

All documents are to provide in electronic form, where possible, although the FOI team is able to receive documents in hardcopy. IT Services and the Records Management team may be available, in limited circumstances, to assist in identifying and locating documents that fall within the scope of an FOI request.

Where a line area has commenced locating the relevant documents and it becomes apparent that the request is complex or voluminous in size, the line area must advise the FOI team as soon as possible to discuss the possibility of revising the scope of the request with the applicant. While there is no precise rule under the Act about what constitutes an unreasonable diversion of resources, requests expected to take more than eighty hours to process may result in a practical refusal of the request for that reason. If the FOI team agrees, they will undertake a request consultation process with the applicant under section 24AB of the FOI Act.

### **4.3 Documents held by contracted service providers**

When locating documents for an FOI request, the NTAIC must enforce its contractual rights to obtain documents from contracted service providers where they hold documents that may fall within the scope of an FOI request (see section 6C of the FOI Act).

### **4.4 Highly sensitive documents**

NTAIC must not refuse to provide documents to the FOI team because the information is sensitive or may be otherwise exempt under the FOI Act. To enable an authorised decision maker to decide on access to documents requested under the FOI Act, the FOI team must have access to all documents within scope. The FOI team have appropriate delegated authority and are adept at handling sensitive or classified material in accordance with NTAIC policies. Although a document may appear to contain highly sensitive material, it is the FOI team's responsibility to ensure that the document meets the relevant criteria for claiming an exemption from release as provided in the FOI Act. It is also important to note that an internal security classification of a document is not a basis for exemption for FOI purposes.

### **4.5 Locating specific information stored in a database**

The FOI Act provides a right of access to documents rather than to information. However, where a document can be produced from statistical information or data as an electronic record on a database or electronic system, section 17 of the FOI Act requires the production of a document containing the information, unless doing so would amount to a substantial and unreasonable diversion of resources.

### **4.6 Providing advice to the FOI team**

The FOI team manages the process and lawful application of the FOI Act on behalf of NTAIC. In order to make appropriate decisions on access to documents, the FOI team requires information from line areas about any

sensitivities in the documents or background information that may have an impact on a document's release. The first official advice provided to the FOI team is the Document Search Minute where the relevant Manager certifies the supply of all relevant documents and information to the FOI team. Once the FOI team has prepared a decision and documents for release, the relevant Manager must sign an FOI Decision Checklist. The purpose of this checklist is to confirm that all relevant stakeholders are aware of any sensitivities relating to the decision or documents subject to release. If an NTAIC Manager raises concerns or additional sensitivities, the FOI decision maker considers these before finalising the decision. Signing the checklist also confirms that the NTAIC Managers have reviewed the draft decision and briefed the Executive where appropriate.

## 4.7 Briefing stakeholders and managing issues

Managers are responsible for providing briefings to their stakeholders regarding sensitivities or possible media responses resulting from a FOI release. Managers should also work with the media team to provide any media/talking points if the FOI release is likely to result in media publications or attention. The FOI team can provide input into these briefings and talking points in relation to FOI legislative requirements and processes, if necessary. However, any talking points regarding the subject matter of the request are the responsibility of the line area.

## 4.8 Internal consultation process prior to finalisation of a decision

Return of the FOI Decision Checklist by the line area certifies that the relevant NTAIC Manager has reviewed the decision and documents. The FOI team will provide the draft decision and documents to significant stakeholders, including the Executive, three days before the decision is due to the applicant. This allows all stakeholders time to review the decision and prepare internal briefings or talking points if required.

## 5.0 Annual Review

NTAIC HR is responsible for ensuring the review of this policy and for its monitoring and evaluation. These activities will be overseen by the Audit and Risk Committee and all changes must be put before the CEO before enacted. Review should occur at least annually (at the end of every financial year) or whenever required by legislative changes.

If you have noticed any omissions or errors in this policy, then please inform the NTAIC CEO.

## 6.0 Related Policies and Legislation

- NTAIC Code of conduct breaches policy
- NTAIC Employee code of conduct
- *Freedom of Information Act 1982 (Cth)*

## 7.0 Version control

Version	Description	Author	Date
0.1	Draft	PIC	20 September 2022

## 8.0 Approval

Name	Position	Approval date	Review
1.0	Acting CEO	9 December 2022	9 December 2023