

Decision Notice

Decision 24/2024: Economic Development Department

Records about fintech and the Fintech Unit

Reference no: 2021017

Decision date: 8 August 2024

Summary

The Applicant made a request under the Public Access to Information (**PATI**) Act 2010 that was transferred to the Economic Development Department (**Department**). The PATI request asked for records on fintech memoranda of understanding (**MOUs**), jobs in the fintech sector and on-island companies, as well as staffing and budget details for the Government's relevant unit. In response, the Department disclosed a list of known MOUs with fintech companies, pointed to publicly available information, and otherwise administratively denied the PATI request on the basis that no other responsive records existed.

During the Information Commissioner's independent review, the Department carried out more searches and, as a result, further updated the Applicant. In this Decision, the Acting Information Commissioner has affirmed the Department's administrative denial of the PATI request under section 16(1)(a) of the PATI Act.

Relevant statutory provisions

Public Access to Information Act 2010: section 16(1)(a) (record does not exist or cannot be found).

Public Access to Information Regulations 2014: regulation 5 (reasonable search).

The Appendix provides the text of these statutory provisions and forms part of this Decision.

Background

1. On 1 February 2023, the Economic Development Department (**Department**) received a records request made under the Public Access to Information (**PATI**) Act 2010. The request, which was transferred from the Cabinet Office,¹ had four items.

¹ See the Information Commissioner's [Decision 03/2024](#), [Cabinet Office](#), which concluded the Information Commissioner's independent review of the Cabinet Office's decision to transfer the PATI request, originally made on 18 November 2022, to another public authority. Note that, when an authority receives a transferred PATI request, the 6-week statutory timeframe starts afresh for the receiving authority (section 13(7) of the PATI Act).

- a. Item 1 asked for a list of all memoranda of understanding (**MOUs**) signed between the Government and any fintech² or digital asset³ company, showing the date the MOU was signed on—and including any MOU that might have already expired.
 - b. Item 2 asked for any record (such as a log) kept by the Fintech Business Unit⁴ on the number of jobs in Bermuda’s fintech sector, from whenever the record was first begun.
 - c. Item 3 asked for the Fintech Business Unit’s list of fintech or digital asset companies with a physical presence and staff on the island.
 - d. Item 4 asked for staffing and budget information for the ‘Cabinet Office’s Fintech Office’ since it was formed.
2. On 21 March 2023, the Department issued an initial decision. For item 1, the Department disclosed a list of six MOUs, based on the Department’s files. No records were identified as responsive to items 2, 3 and 4 in the PATI request. Instead, for item 2, the Department referred the Applicant to the then-most recent budget brief delivered by the Minister of Economy and Labour in Parliament. For item 3, the Department pointed to the website of another public authority, the Bermuda Monetary Authority (**BMA**), for information about companies licensed under the Digital Asset Business Act 2018 (**DAB Act**).⁵ For item 4, the Department suggested that the Applicant look at the annual budget, which was published each year on the government website (gov.bm), to find the details they had asked for about the ‘Cabinet Office’s Fintech Office’.
 3. On 21 March 2023, the Applicant asked for an internal review of the Department’s initial decision. They believed the MOU list was incomplete and that the Department itself must have held logs relevant to items 2 and 3 in their request. The Applicant also asked the Department for help in finding the information responsive to item 4 within the Government’s budget books, such as page numbers for the relevant years.

² ‘Fintech’ is short for ‘financial technology’. It refers to the use of technology to improve and automate financial services and processes. For instance, when people can pay a parking ticket or their vehicle re-licensing online with a debit or credit card, they are using fintech.

³ See [Decision 01/2024](#), [Bermuda Monetary Authority](#), to learn more about the Information Commissioner’s review of the BMA’s response to a PATI request seeking records on companies licensed by the BMA under the Digital Asset Business Act 2018.

⁴ See paragraph 22 below about the formation of the Fintech Business Unit, also referred to as the ‘Fintech Office’, ‘Fintech Unit’, ‘Fin Tech Unit’ and ‘the Premier’s Office of Fintech’ in government sources and the media.

⁵ The BMA maintains an online list of all entities currently licensed or registered by it, on its website, bma.bm.

4. On 13 July 2023, the Department issued an internal review decision to the Applicant, which upheld the initial response to item 1 and the administrative denial of items 2, 3 and 4 under section 16(1)(a) of the PATI Act.⁶ The Department affirmed that the initial decision reflected the state of the Department's files at that time. This decision did not answer the Applicant's query about where to look in the budget books.
5. On 16 August 2023, the Applicant asked the Information Commissioner for an independent review, challenging the Department's reliance on section 16(1)(a) to have administratively denied most of their PATI request.

Investigation

6. The Information Commissioner's Office (ICO) accepted the application as valid on 6 September 2023, on the basis that the Applicant had made a PATI request to a public authority and had asked that public authority for an internal review. The ICO also confirmed the issue the Applicant wanted the Commissioner to review.
7. The Information Commissioner decided that early resolution under section 46 of the PATI Act was not appropriate, because the public authority's formal submission was required to justify its reliance on the administrative ground.
8. On 19 September 2023, the ICO notified the Department of this review. As stated below, the issue under review was extended to consider the Department's response to the transferred PATI request in full.
9. As required by section 47(4) of the PATI Act, the parties were given a reasonable opportunity to make representations to the Information Commissioner before she completed her review.
10. The ICO first invited the Department's submissions on 31 January 2024 and received them on several occasions between 8 March and 8 August 2024. Follow-up responses and actions were prompted by the ICO probing gaps in the Department's earlier explanations, as described below. This also involved reaching out to colleagues in the Department as well as third parties. The Department shared with the ICO some underlying records, which informed its decisions and updates to the Applicant as well as

⁶ The Department's delay in issuing this internal review decision was the subject of an Information Commissioner's 'failure to decide' review; see [Decision 13/2023](#).

its clarifications to the ICO. The Department's submissions to the ICO also evidenced the scope and results of its additional searches during this review.

11. The ICO first invited the Applicant's submissions on 8 March 2024 and received them, with other updates, between 30 April and 2 July 2024.
12. In hopes of resolving the matter during the Information Commissioner's review, the Department supplemented its internal review decision by updating the Applicant on 22 March, 25 April, 15 May and 8 August 2024—arising from its additional search efforts following the ICO's queries with the Department. The ICO also shared a preliminary view with the Applicant about the Department's search on 29 April 2024. The Applicant chose to preserve their right under the PATI Act to receive an Information Commissioner's decision on this review. As detailed below, the Applicant pointed to public statements about the Government signing MOUs with named companies that were not listed in the Department's original decisions and updates on item 1 in their transferred PATI request.
13. A final opportunity to make formal submissions was extended to both parties on 21 May 2024. These letters informed the parties that the Information Commissioner's decision on this review would assess the Department's position on each item in the PATI request.

Acting Information Commissioner's analysis and findings

14. The Acting Information Commissioner has considered all relevant evidence, being satisfied that no matter of relevance has been overlooked.

Record does not exist or cannot be found – section 16(1)(a)

15. Public authorities are entitled under section 16(1)(a) to administratively deny a request if a requested record does not exist or cannot be found after all reasonable steps have been taken to find it.
16. Regulation 5 of the PATI Regulations 2014 requires public authorities, through their Information Officers, to make reasonable efforts to locate records responsive to a PATI request. Regulation 5(2) requires a public authority to document its efforts if it has been unable to locate any record.
17. When a public authority denies a PATI request under section 16(1)(a) because a record does not exist or cannot be found, the Information Commissioner's review does not determine to a point of certainty if a record exists or can no longer be located. Rather, the Information Commissioner is required to assess whether the public authority has taken all reasonable steps to find a record. Further, section 16(1)(a) does not concern

whether a public authority should hold a record as a matter of good public administration.

18. In determining whether a public authority's search was reasonable, the Information Commissioner takes into account the following:
 - [1] the quality of the public authority's analysis of the PATI request;
 - [2] the scope of the search that it decided to make on the basis of that analysis; and
 - [3] the rigour and efficiency with which the search was then conducted.
19. The specific circumstances in each case will inform the Information Commissioner's assessment.
20. Finally, the public authority bears the burden to establish, on the balance of probabilities, that responsive records do not exist or cannot be found after all reasonable steps have been taken to find them.⁷

Public authority's submissions

21. The Department set out a useful background about how it was established and its role in the fintech sector, in addition to explaining the various efforts the Department made to respond to this PATI request once received by it on 1 February 2023. Below describes the Department's submissions to the ICO and updates to the Applicant during this review.
22. The Department explained that the Government's Fintech Business Unit was formed in October 2018⁸ and staffed by personnel who were moved to it temporarily from other areas of the Public Service. The Department itself was created in April 2020,⁹ and the Fintech Business Unit was merged operationally into the Department's Business Services Division in November 2022. At the time of the transferred PATI request, the Department did not have an independently operating 'Fintech Office' or 'Fintech Unit' or 'Premier's Office of Fintech'.

⁷ See [Decision 04/2017](#), [Department of Health](#), at paragraphs 37-49, and more recently [Decision 15/2024](#), [Department of Child and Family Services](#), at paragraphs 19-24.

⁸ See Government of Bermuda, '[Responsibility for FinTech shifted from Ministry of National Security to the Office of the Premier](#)' (2 November 2018).

⁹ In the House of Assembly on [31 January 2020](#), the Premier announced that the Department would be created in the next financial year. After its initial move from under the Ministry of National Security, the Department fell under the Cabinet Office's ministerial responsibility ([18 November 2020](#)) until it was moved to under the Ministry of Economy and Labour in [April 2022](#) (where, at the time of writing, it has remained).

23. The Department described that, broadly, it was responsible for the Government’s role in developing and diversifying the Bermuda economy to stimulate economic growth.¹⁰ The Department worked with the Government-of-the-day and other public authorities, such as the Bermuda Business Development Agency, to attract international business to the island for diversifying the economy. Once a company was registered with the Registrar of Companies, the Department’s mandate was to help them navigate the local regulatory and administrative landscape. This included a concierge service for the Department’s client companies—some of which were in the fintech sector—by supporting their expedited registration with other government departments, such as for work permits and employee payroll tax and social insurance.
24. Importantly, the Department explained that the Government did not require fintech companies to liaise with the Department to do business locally; and many instead would work with private corporate service providers or law firms. Only recently had the Department become more aggressive in directly connecting with fintech companies.
25. The Department submitted to the ICO that its search for responding to this transferred PATI request was driven primarily by knowledge of the Director and the Senior Manager, who also served as the Department’s Information Officer for PATI. These two postholders were responsible for all fintech-related matters in the Department. Responsive records, if they were to exist, would have been held either in the Department’s customer relationship management system or in electronic files stored on its shared drive. The Department had found it unnecessary, originally, to search for records beyond those two locations.
26. For item 1 in the PATI request (about MOUs), the Department’s original decisions had informed the Applicant of the following six MOUs signed with fintech or digital asset companies between April 2018 and July 2022: B-Seed Partners, FinHigh Capital, and B.F.S. Holdings Ltd.; Binance Holdings; MAPay Ltd.; Medici Ventures, LLC; Omega One; and Shyft Network Inc..¹¹ In its initial submissions to the ICO, the Department explained that it had not informed the Applicant of two other MOUs, due to clauses in them stating that the ‘existence of the MOU’ was itself confidential. After consulting the ICO on whether this stance had been correct—and then notifying the companies, who did not object to the public being informed that the MOUs existed—the Department sent the

¹⁰ To learn more, see the Department’s [PATI Information Statement](#) (last updated December 2023), for a summary of what the Department does, how it operates, and the types of records it holds.

¹¹ See, for instance, Government of Bermuda, ‘[MOU signings in FinTech development](#)’ (3 May 2018), and ‘[Premier unveils new Fintech opportunity](#)’ (7 June 2018).

Applicant an updated list adding the two known MOUs that had been signed with Deltec Bank & Trust Ltd. and Deltec International Group. This brought the total count on the Department's disclosed list for item 1 to eight MOUs. In a further update, the Department affirmed to the Applicant that it held no more responsive MOUs with fintech or digital asset companies. In support of the Department's disclosed list, each MOU was shared with the ICO, besides one (which the Department stated was not available).

27. Where, during this review, the Applicant had referred to possible MOUs signed with publicly named companies, the Department provided the ICO with its search log, showing that it did not hold a signed MOU. This included searches for Bitfury Group, Proof of Trust, BITT Inc., and iCash, given information in the public domain as pointed out by the Applicant. The Department's search log included screenshots from looking through its customer relationship management system and shared drive during this review. The Department also submitted to the ICO two information-gathering email threads with knowledgeable colleagues, including the Director. These emails showed that the Department was aware of other public authorities' discussions about signing MOUs with two of the companies named by the Applicant. In one instance (for Bitfury Group), a formal agreement was reported to have not been signed; and in the other instance (for Proof of Trust), the Department's files did not hold the signed MOU.
28. For item 2 in the PATI request (about jobs), the Department understood that the Applicant was seeking a 'log' or list that it might have held at the time of the transferred PATI request. 'Log' was taken to mean an up-to-date, formal and comprehensive list maintained by the Department on all companies licensed under the DAB Act, with information relevant to Bermudians being employed by them.
29. The Department submitted to the ICO that, at the time of the transferred PATI request, the Department did not have any statutory responsibility to report on specific fintech-related items. As such, the Department had no operational reason to retain, organise and continuously update information about jobs in the fintech sector.
30. During this review, for item 2, the Department drew the Applicant's attention to a recent [ministerial statement](#), which included relevant job counts for the calendar year 2023. The Department explained to the Applicant that another public authority, the Department of Statistics, had started to collect data on Bermudians employed in the fintech sector, and that the Department had been able to secure this data in 2024. The Department reiterated to the Applicant that, at the time of this transferred PATI request, the Department had not tracked this information.
31. For item 3 in the PATI request (about on-island companies), the Department understood that the Applicant was seeking an up-to-date, formal and comprehensive list, which

would show all fintech companies that had a physical presence with staff located on-island. The Department explained to the ICO that it might have knowledge of a fintech company's physical presence and staffing where it had liaised directly with the company. The Department had not retained and did not maintain any specific records responsive to item 3—beyond client information stored in its system or otherwise in the public domain.

32. For the part of item 4 in the PATI request (about budget), the Department updated the Applicant during this review on where to look in the Government's budget books.¹² The Department explained that the only financial year where a 'Fin Tech Unit' appeared with an approved budget amount was in 2020-2021 under the Department (on [page B-79](#)); and that in the next financial year (2021-2022), the 'Fin Tech Unit' was shown with a budget value of zero (on [page B-195](#)), because, by then, the Unit had been fully merged into the Department's budget. Further, the Department disclosed to the Applicant a performance report pulled from the government accounting system, E-1, for the cost centre '104130' assigned to the 'Fin Tech Unit'. The performance report gave a breakdown, by object code, for the approved estimated budget of \$150,000, the adjusted budget, and the actual expenditure of the reported budget figure of \$120,000 for the 2020-2021 financial year.
33. For the part of item 4, about staffing, the Department further explained to the Applicant, during this review, that no full-time equivalent employee count was shown in the budget books for the 'Fin Tech Unit' (on [page B-80](#)), because, over its lifetime, the Unit was staffed by officers re-assigned from other areas of the Public Service—in addition to a paid consultant from 2020 to 2023 with the title Chief Fintech Advisor whose position became unpaid after 2023.
34. In its submissions to the ICO, the Department emphasised that, in practice, there was no budget or staff allocated to the Fintech Business Unit distinct from the Department. Salaries for re-assigned officers were recorded through the budget of each postholder's original public authority. The Department also submitted to the ICO that the Fintech Business Unit comprised three individuals when first set up in 2018 (i.e. before the

¹² A department's budget information for a given financial year is reported in the government budget books over three years. The first one gives an estimated value, which is set before the relevant financial year starts and is approved by the Legislature. The second one gives an adjusted value, based on the department's mid-year review of its actual performance. The third one gives an actual value, based on a full, true accounting of monies spent. In this case, for the 2020-2021 budget allocated for the 'Fin Tech Unit' under the Department, see the [2020 budget book](#) for the estimated expenditure, the [2021 budget book](#) for the revised expenditure, and the [2022 budget book](#) for the actual expenditure.

Department itself existed) and that, in 2020, the Unit was staffed by one re-assigned public officer and one consultant.

Applicant's submissions

35. For item 1 in their PATI request, the Applicant did not believe the Department had responded to them with a complete list of all the Government's MOUs with fintech and digital asset companies. The Applicant pointed to public statements made, between 2018 and 2022, about the Government signing MOUs with companies that were not listed in the Department's original decisions and updates on their transferred PATI request.¹³ During this review, the Applicant probed whether the Department held any other records showing that any other fintech company, among those the BMA had listed as incorporated in Bermuda or as highlighted in news articles—such as Arbitrade, Bitfury Group, BITT Inc., Bittrex, BlockFi, CrossTower, iCash, Jewel Bank, Proof of Trust, and Uulala—had signed an MOU or other agreement with the Government.
36. For items 2, 3 and 4 in their PATI request, the Applicant submitted that the Department must have held records allowing it to list the number of jobs in the fintech sector, to identify which fintech companies were present on island, and to further detail for them the staff and budget of the Fintech Business Unit.

Discussion

[1] The quality of the public authority's analysis of the PATI request

37. The Acting Information Commissioner is satisfied that, based on its explanations and submissions, the Department's analysis of the PATI request was adequate.
38. Relevant to items 1 and 3 in the PATI request, the Department interpreted 'digital asset/fintech businesses' to mean any business licensed by the BMA to carry out business

¹³ The Applicant referred to a [Royal Gazette article](#) dated 28 July 2018, containing a list of then-registered fintech companies, including Uulala and Arbitrade; a [Royal Gazette article](#) dated 28 June 2018, stating that the Government had signed an agreement with the Bitfury Group; a [corporate press release](#) by Proof of Trust dated 15 January 2021, stating that it had signed an MOU with the Government (where the Applicant also noted its related entity, iCash, which they believed might have signed an MOU as well); and a [government press release](#) dated 1 May 2018, stating that the Premier had signed an agreement with the founder of BITT Inc. to be a consultant and advisor to the Government.

activities defined in the DAB Act.¹⁴ Based on the Department's working knowledge of its fintech-related activities, this was reasonable.¹⁵

39. The Department understood that, by item 1, the Applicant was asking for a list of MOUs signed between the Government and any licensed digital asset business. The Department understood that items 2 and 3 in the PATI request sought lists to show the number of jobs in the fintech sector and all licensed digital asset businesses with a physical presence and staff on-island.
40. For item 4 in the PATI request, which asked for records about the 'Cabinet Office's Fintech Office', the Department adopted a broader reading. This was shown by the Department referring the Applicant to publicly available information about the 'Fin Tech Unit' under the Department in the government budget books.

[2] The scope of the search that it decided to make on the basis of that analysis

41. Relevant to items 1, 2 and 3, the Acting Information Commissioner finds that it was appropriate for the Department to limit its searches for responsive information about companies to its files by relying on its working knowledge, its usual external resources (e.g. the BMA's 'registered entities' webpage), and information stored in its customer relationship management system and on its shared drive.
42. For item 1, where the Applicant had identified specific companies that may have had MOUs with the Government, the Department broadened its search and enquired further, amongst colleagues, to satisfy itself that no other responsive records were held by the Department.
43. The Acting Information Commissioner accepts the Department's submission on its handling of items 2 and 3, seeking lists that the Department had no reason to create and maintain. This was explained sufficiently to the Applicant, along with relevant information being made publicly accessible by other public authorities.

¹⁴ The BMA has summarised for the public the three types of licenses issued by the BMA under the DAB Act, in a 'frequently asked questions' [bulletin](#).

¹⁵ Though the point was not raised during this review, the public may learn that fintech businesses can include 'innovative insurer' companies with a class IGB or class ILB license under the Insurance Act 1974, where listed on the BMA's 'registered entities' webpage. See, for instance, the Premier's statement in a government press release, '[Fintech is creating jobs, Premier meets Bermudian staff at Bittrex and RELM Insurance](#)' (26 June 2022); and the government website, [FinTech Bermuda](#) (under 'licensed companies').

44. For item 4, the Acting Information Commissioner finds that the Department’s reference to publicly available information about the Government’s expenditures and full-time employee numbers, both estimated and actual as reported annually to the public by way of the budget books, was appropriate. The Department further demonstrated to the ICO during this review that it understood the government accounting system, E-1, to be a record holding some responsive information. This step led the Department to disclose a responsive record in support of the budget books’ expenditure figures during this review.

[3] The rigour and efficiency with which the search was then conducted

45. For items 1, 2 and 3, the Acting Information Commissioner is satisfied that the Department has searched its files with adequate rigour and appropriately remedied gaps with its initial responses on the PATI request during this review. The most senior public officers within the Department, with direct knowledge on fintech-related matters, the Department’s work practices and record keeping, led its search efforts.

46. The Acting Information Commissioner agrees with the Applicant’s view, though, that the MOU list was incomplete. Based on public reporting, the Government had signed an MOU, described as an “historic agreement”, in or before June 2018 with Bitfury Group¹⁶—one of the companies the Applicant highlighted as missing from the Department’s response to item 1. The Government also had signed an MOU with Proof of Trust in December 2020, which was another gap in the MOU list pointed out by the Applicant. Aside from the facts that the 2018 MOU with Bitfury Group and the 2020 MOU with Proof of Trust existed, the Acting Information Commissioner accepts the Department’s explanations that the Department itself did not hold the records. Having to liaise with other public authorities for records held by them (not the Department) would be a disproportionate step. While this extra step could have been helpful, in allowing the Department to compile a more complete list for the Applicant showing all relevant MOUs signed by any public authority on behalf of the Government as at the time of the transferred PATI request, the PATI Act does not require it. Rather, it was reasonable for the Department to respond based on its own files and working knowledge. Whether, at that time, the Department should have held a record on every relevant MOU, as a matter of good public administration, goes beyond the scope of the Information Commissioner’s review. Here, telling the Applicant which other public

¹⁶ See the government press release, ‘[Government of Bermuda partners with Bitfury to bring blockchain to land registry](#)’ (27 June 2018), which stated that “The memorandum of understanding advances Bermuda’s mission to improve government services for citizens by implementing blockchain-based solutions. In late 2017, the Government launched a blockchain task force to promote development of the technology and has since passed legislation and established a regulatory framework for [initial coin offerings].”

authority might hold other MOUs, based on the Department's working knowledge, would have been appropriate.¹⁷ This Decision, however, provides sufficient information that may help the public seek access to records through fresh PATI requests.

47. For item 4, the Acting Information Commissioner is satisfied with the rigour and efficiency shown in the Department's search for responsive records, explanations to the Applicant and submissions to the ICO. The Acting Information Commissioner considered whether the Department's response to the Applicant could have added certain information known by the Department as an institution; for instance, the number of re-assigned public officers and consultants working on fintech-related matters at a given time. Based on the Department's submissions to the ICO and on public reporting, it can be summarised that the Fintech Business Unit, over its lifetime, was comprised of: three re-assigned officers in 2018 (first led by a re-assigned department head¹⁸); one re-assigned officer in 2020 and a consultant¹⁹ from 2020 to early 2023; and in mid-2022, an officer who described themselves as the Department's fintech analyst and two officers who described themselves as 'secondees' from the Bermuda Economic Development Corporation²⁰. Telling the Applicant more details, such as the number of staff re-assigned over the Unit's lifetime and their roles, based on the Department's knowledge, would have been appropriate. This Decision, however, further explains the Department's response to the request for staffing details.
48. Public authorities are reminded that section 6 of the PATI Act requires two types of proactive disclosures on an authority's spending, without the need for a PATI request. The first is to publish details on any contract for goods or services that values \$50,000 or

¹⁷ Though the Department was not obliged to transfer a part of item 1 in this PATI request back to the Cabinet Office, public authorities are reminded that, in similar circumstances, if an authority knows another authority holds a responsive record, a transfer between authorities must be considered. This duty is in section 13(5) of the PATI Act.

¹⁸ See a government press release reported in Bernews, '[Smith appointed to Govt FinTech Business Unit](#)' (9 October 2018), which stated that Mr. Smith's 'secondment' to the Fintech Business Unit was for one year.

¹⁹ The Department had publicly disclosed the consultant's contract value for the 2020 calendar year, by way of a gazette notice ([GN0280/2021](#)). This 2021 notice was in the public domain at time of the PATI request. A similar notice for the consultant's services in 2021 and 2022 was not found by the ICO in the Official Gazette. Where any contract meets or exceeds a value threshold of \$50,000, as set out in section 6(5) in the PATI Act, a gazette notice is required.

²⁰ Listen to the Department's '[Fintech Fridays](#)' first podcast episode, where three officers introduced themselves and their work in the 'Premier's Office of Fintech', as described in a [government press release](#) announcing a weekly podcast (3 August 2022).

more,²¹ and the second is to make available quarterly expenditure reports when asked by any member of the public. When made routinely and in a timely manner, these information sources are meant to support the public’s awareness of the Government’s actual spending of public funds, which should encourage citizen engagement—and avoid the need to process PATI requests for this type of information.

Conclusions

49. Based on the evidence available, the Acting Information Commissioner is satisfied that the Department has justified a reliance on the administrative ground in section 16(1)(a) of the PATI Act in responding to the transferred PATI request.
50. Finally, the Acting Information Commissioner observes that the ICO has seen this same PATI request cycled through five independent reviews. For a request seeking records in support of official statements made over the years by elected officials and public officers on progress in Bermuda’s burgeoning fintech sector, this cycling was excessive.

²¹ In addition to publishing a notice for the public’s benefit about all qualifying contracts, the Government’s [Code of Practice for Project Management and Procurement](#) requires each public authority to maintain an up-to-date register of all its contracts—no matter if the contract value means that a public notice and internal reporting of the contract to the Office of Project Management and Procurement are needed; see paragraph 33 in the Code.

Decision

The Acting Information Commissioner finds that the Economic Development Department (**Department**) was justified in administratively denying the transferred records request under section 16(1)(a) of the Public Access to Information (**PATI**) Act 2010.

In accordance with section 48 of the PATI Act, the Acting Information Commissioner affirms the Department's internal review decision relying on section 16(1)(a) and as further substantiated during this independent review. The Acting Information Commissioner does not require the Department to take more steps with respect to this Decision.

Judicial Review

The Applicant, the Economic Development Department, or any person aggrieved by this Decision has the right to seek and apply for judicial review to the Supreme Court in accordance with section 49 of the PATI Act. Any such application must be made within six months of this Decision.

LaKai Dill
Acting Information Commissioner
8 August 2024

Appendix: Relevant statutory provisions

Public Access to Information Act 2010

Refusal of request on administrative grounds

- 16 (1) A public authority may refuse to grant a request if—
- (a) the record requested does not exist or cannot be found after all reasonable steps have been taken to find it;
 - ...

Public Access to Information Regulations 2014

Reasonable search

- 5 (1) An information officer shall make reasonable efforts to locate a record that is the subject of an application for access.
- (2) Where an information officer has been unable to locate the record referred to in paragraph (1), he shall make a record of the efforts he made.

**Information Commissioner for Bermuda
Maxwell Roberts Building
4th Floor
One Church Street
Hamilton, HM 11
ico.bm
441-543-3700**