

## Ministry of Finance and Economic Development — response to Freedom of Information request

Reference FOI/110118 · 17 July 2024

---

*Reproduced for publication. The names of the contractors engaged on the project (and a web address that identifies one of them) have been redacted; the substance of the response is unchanged.*

Dear Mr. Lindsay,

Thank you for your below FOI request, dated 16 July 2024 which was dealt with under the terms of the Freedom of Information Act (2020 Revision) ("the Act").

The Ministry of Finance & Economic Development is pleased to grant you access to the records that you are seeking:

1. The Cayman Islands National Attractions Authority confirmed to the applicant that:
  - a. The Children's Garden at Queen Elizabeth II Botanic Park started in 2016.
  - b. "A total of \$561,147.90 has been spent. Approximately \$200K was allocated to the Schoolhouse project, and over \$100K was spent on site development. These projects were initiated in 2016 and 2017, before the Procurement Act was enacted. The remaining \$261K was distributed among various projects. Following the initial cash injection, all subsequent capital expenditures from public funds were made to support donor driven initiatives. These disbursements, within the \$10K–\$100K threshold, required a minimum of three quotations."
  - c. "the parties hired to carry out the development works for the Children's Garden, following the completion of the request for proposals process, were [REDACTED], [REDACTED], [REDACTED], and [REDACTED]."
  - d. "In response to your FOI request, we confirm that no minutes of meetings were kept in relation to the development and operations of the Children's Garden for the years 2019, 2020, 2021, 2022, and 2023."
2. Regarding the above, please confirm:
  - a. The date that the Procurement Act was enacted (It appears to have been enacted as Law 47 of 2016 on October 24, 2016)
  - b. Whether the \$561,147.90 spent on the Children's Garden fell within the ambit of the Procurement Act.
  - c. If the public funds spent on the Children's Garden fell within the ambit of the Procurement Act, please confirm whether the processes under the Procurement Act were followed.
  - d. Is it unusual or irregular that no minutes were kept by the Cayman Islands National Attractions Authority or its predecessor to demonstrate approval of the Children's Garden and monies to be spent on the Children's Garden?
  - e. In the absence of minutes, were any questions asked by your office whether the Children's Garden was formally approved by Cayman Islands National Attractions Authority or its predecessor?
  - f. Did your office inquire whether there were any conflicts of interest between (A) any Government minister or employee and/or any member of the Cayman Islands National Attractions Authority or its predecessor

and (B) persons carrying out the work on the Children's Garden?

- g. It is noted that [REDACTED] is listed as a company carrying out work, however, this is the name of a UK company (see [REDACTED]). Is it within the ambit of your office to inquire if there is a relationship between the UK company and the company carrying out the work on the Children's Garden?
- h. What issues (if any) has your office raised regarding the Children's Garden project and/or public funds spent on the Children's Garden?

**Access to Records.** The attached document, Appendix A, provides the information that you are seeking.

The letter then set out the standard rights to request an Internal Review under section 33 of the Act (within 30 days) and to appeal to the Ombudsman under section 42 of the Act. It was signed by the Freedom of Information Team, Finance Administration, Ministry of Finance and Economic Development, Cayman Islands Government.

---

## Appendix A

1. The Cayman Islands National Attractions Authority confirmed to the applicant that:
  - a. The Children's Garden at Queen Elizabeth II Botanic Park started in 2016.
  - b. "A total of \$561,147.90 has been spent. Approximately \$200K was allocated to the Schoolhouse project, and over \$100K was spent on site development. These projects were initiated in 2016 and 2017, before the Procurement Act was enacted. The remaining \$261K was distributed among various projects. Following the initial cash injection, all subsequent capital expenditures from public funds were made to support donor driven initiatives. These disbursements, within the \$10K–\$100K threshold, required a minimum of three quotations."
  - c. "the parties hired to carry out the development works for the Children's Garden, following the completion of the request for proposals process, were [REDACTED], [REDACTED], [REDACTED], and [REDACTED]."
  - d. "In response to your FOI request, we confirm that no minutes of meetings were kept in relation to the development and operations of the Children's Garden for the years 2019, 2020, 2021, 2022, and 2023."
2. Regarding the above, please confirm:
  - a. **The date that the Procurement Act was enacted (It appears to have been enacted as Law 47 of 2016 on October 24, 2016).**

The Law was passed in the LA on that date but it didn't come into force until May 2018 when the Procurement Regulations, 2018 came into force.
  - b. **Whether the \$561,147.90 spent on the Children's Garden fell within the ambit of the Procurement Act.**

That expenditure, which took place between 2016 and 2017, would not have been subject to the Procurement Act and Regulations. The Law, upon coming into force in May 2018, stated in section 21(1) — "Every procurement project being carried out that has not been started when this Law comes into force shall be deemed to be a procurement project under this Law and this Law shall apply accordingly."
  - c. **If the public funds spent on the Children's Garden fell within the ambit of the Procurement Act, please confirm whether the processes under the Procurement Act were followed.**

See answer to question (b).

**d. Is it unusual or irregular that no minutes were kept by the Cayman Islands National Attractions Authority (CINAA) or its predecessor to demonstrate approval of the Children's Garden and monies to be spent on the Children's Garden?**

Procurement at that time was governed by the Financial Regulations, which had its own requirements and approval steps. It did not specifically require "minutes" to be kept on the matter but a record, as per the "Financial Record Keeping" section, in some form would have been needed to show compliance with those regulations. This is not a matter that the CPO was responsible for. Any activity that took place after May 2018 should have records kept under the Procurement Regulations section on "Procurement Documentation".

**e. In the absence of minutes, were any questions asked by your office whether the Children's Garden was formally approved by Cayman Islands National Attractions Authority or its predecessor?**

The project was brought to the attention of the CPO in late 2022 (exact date not recorded) by phone call from the predecessor of the CINAA, the Tourism Attraction Board (TAB). At the time, the CPO advised the TAB that any further procurements/contracts that were needed to continue the work should only be done after a business case was completed and funding was confirmed, as per the Procurement Act and Regulations. This document would lay out the history of the project, its current state and what was needed for completion and the appropriate procurement routes among other project details. In February 2023, a draft business case was produced by TAB. Please note that the CPO is not an approval body as per the Procurement Act and Regulations, as such documents would need to be officially reviewed and approved by the entity's procurement committee. Any details related to the review and approval of that document would be held by CINAA.

**f. Did your office inquire whether there were any conflicts of interest between (A) any Government minister or employee and/or any member of the Cayman Islands National Attractions Authority or its predecessor and (B) persons carrying out the work on the Children's Garden?**

No, it should be noted that the CPO is not an investigative body. As noted in question (e) above, at the time that the TAB contacted the CPO in late 2022 about the project, the entity was carrying out the project for a number of years. Our guidance was to complete a business case, detailing the project and to take it through the process required as at that time if it was to continue. This would include compliance with the gazetted Code of Conduct for Procurement. It is the responsibility of the CEO/Head of the SAGC (as can be seen in Schedule 6) to implement and ensure, within their public authority, compliance with this Act, and all associated regulations, policies and procedures. The CPO is not responsible for ensuring compliance at the entity level but where we become aware of non-compliance, we provide guidance as per our role in Schedule 2 of the Procurement Act. If necessary, reporting to audit and investigative bodies (such as the Ombudsman and the Anti-Corruption Commission) is done based on the particulars of the situation.

**g. It is noted that [REDACTED] is listed as a company carrying out work, however, this is the name of a UK company (see [REDACTED]). Is it within the ambit of your office to inquire if there is a relationship between the UK company and the company carrying out the work on the Children's Garden?**

Contractual relationships between private entities that are working together, whether on island or otherwise, are assessed by the procuring entity at the time of procurement if those entities make a joint submission. The CPO is not aware of the arrangement mentioned above.

**h. What issues (if any) has your office raised regarding the Children's Garden project and/or public funds spent on the Children's Garden?**

The main point raised by the CPO was the lack of a business case that would outline key information such as funding sources and procurement routes that are compliant with the Procurement Act and Regulations. Due to the project being funded by a combination of revenue, private in-kind (non-cash) donations and private cash donations, it was important to delineate those in order to determine which items were subject to the Procurement Act and Regulations.