Dear [Name],

1. I refer to your email, dated 21 December 2011, in which you confirmed that you wished to proceed with a request for access, under the Freedom of Information Act 1982 (FOI Act), to:

   "...a summary document detailing payments made under the Tactical Payments Scheme."

FOI Statutory deadline

2. In an email, dated 6 February 2012, I sought your agreement to extend the FOI statutory deadline, in accordance with section 15AA of the FOI Act, to 15 February 2012. By return email, on the same date, you agreed to the extension.

3. The FOI Directorate is pleased to provide this decision by the extended FOI statutory deadline.

FOI decision maker

4. Ms Marlena Davis, Director, Finance, Headquarters Joint Operations Command (HQJOC) is the authorised decision maker, under the FOI Act, in relation to your request.

Documents identified

5. Ms Davis identified the following two documents as matching the scope of your request:

   I. Special Payments Master Register
   II. Operation Astute Tactical Payment Register

Defending Australia and its National Interests
6. Ms Davis noted that your request was validated on 21 December 2011 and therefore there was no obligation under the Act to provide information after that date. However, Ms Davis advised that due to the reporting period ending on the last day of the month, on this occasion, as it was available at the time of completing the request, the identified documents contain records up to (and including) 31 December 2011.

Decision

7. Ms Davis decided to release the identified documents with deletions, in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, as the deleted material is considered exempt under section 33 document affecting national security, defence or international relations and section 47F [public interest conditional exemptions – personal privacy] of the FOI Act. Ms Davis’ reasons are set out below.

8. Copies of the relevant sections of the FOI Act are at Enclosure 1.

Material taken into account

9. In coming to her decision, Ms Davis had regard to:
   - the specific parameters of your request
   - the content of the documents in issue
   - relevant provisions in the FOI Act
   - The guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the guidelines)
   - Advice from Deputy Director - Finance, HQJOC, Legal Officer, HQJOC & Director, Global Operations, HQJOC whose duties relate to the matters referred to in the documents.

Section 33 of the FOI Act

10. Ms Davis noted that section 33 of the FOI Act provides as follows:

    33(a)(i), 33(a)(ii) and 33(a)(iii) A document is an exempt document if its disclosure under the Act would or could reasonably be expected to, cause damage to the security of the Commonwealth; the defence of the Commonwealth; or the international relations of the Commonwealth.

    (b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organisation to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.
11. Ms Davis observed that the enclosed document, contains information that would, or could reasonably be expected to, cause damage to the security, defence and international relations of the Commonwealth. The disclosure of information such as category of loss, details of the incident, amounts paid both in foreign currency and Australian dollars and delegates would jeopardise mission accomplishment and compromise force protection, given the fragile social environment in Afghanistan and East Timor. Ms Davis noted that Afghanistan is the primary area of operations where the Tactical Payment Scheme is utilised. Ms Davis stated that it would also have the propensity to create a local economy, with false claims or contrived incidents and unrealistic expectations on maximum payments. Disclosure of payment amount, categories of loss and details would also divulge information provided from coalition partners on their respective schemes and partnering operations. Ms Davis is satisfied that this information satisfies the exemption under section 33 of the FOI Act.

Section 47F of the FOI Act

12. Ms Davis also noted that the document contains personal information of Australian Defence Force (ADF) members, Defence civilians, Afghan and East Timorese Nationals. This information is limited to the name, rank and in some instances position. Ms Davis considered that this information is conditionally exempt under section 47F of the FOI Act, as its release would constitute an unreasonable disclosure of personal information. Ms Davis also noted that the documents contain the identity of ADF personnel which is subject to operations restrictions, in that it discloses the names of Special Operations Task Group (SOTG) delegates and witnesses who have a protected identity status by virtue of their specialist role and task requirements; and therefore the release of this information is restricted from release in this well accepted national security principle.

13. Acknowledging the factors set out in section 11B of the FOI Act and the public interest in the release of non-liability gratuity payments to local nationals in an area of operations, Ms Davis was of the opinion that the protection of persons named in the documents far outweighs the public interest in the disclosure. Ms Davis noted that, presently, it is not known whether the ADF members and civilians named in the documents will serve again in Afghanistan and East Timor and she believed that the public interest in protecting the lives of our ADF members and Defence civilians far outweighs the interest in disclosure of delegates and witnesses to Tactical Payment Scheme payments.

14. Ms Davis also noted that disclosure of local nationals' names (payee's) would be morally distasteful, but if released would almost certainly fall into the hands of combatants currently engages in counterinsurgency operations against ADF personnel. Such information could then be utilised by the enemy to exploit further information or resources from the recipient and would prejudice the effectiveness of Australia's current operations in Afghanistan.

Section 22

15. Taking all of the above into consideration, Ms Davis found that the exempt material could be removed from the documents, in accordance with section 22 of the FOI Act.

Clarification of exchange rates

16. Ms Davis advised that on review of 'Document 1.', an anomaly in the data entry for currency exchange rates for Afghan Afghansis (AFN) to Australian Dollars (AUD) was identified. The usual convention is AUD to AFN however the rate entered reflects the AFN to AUD rate.
Payment of FOI Charges

17. In our letter, dated 22 December 2011, after deducting the free decision making time, the department estimated the cost associated with processing your request to be $\text{[redacted]}$. You agreed to pay charges for the administration of your request and paid the preliminary assessment deposit of $\text{[redacted]}$ on 10 January 2012.

18. Upon completion of your request, the actual amount for processing was calculated to be $\text{[redacted]}$. However, as advised in paragraph 9 of our above mentioned letter the amount payable can only be more than the preliminary assessment if the decision is to release all of the documents requested in full. The remaining balance is the difference between the preliminary assessment of charges ($\text{[redacted]}$) and the deposit you have already paid ($\text{[redacted]}$).

19. Accordingly you are required to pay $\text{[redacted]}$ in order to finalise your request. Cheques or Money Orders should be made out to the ‘Receiver of Public Monies’ and forwarded to the address at the top of this letter. Credit card payments can be made by completing the form at Enclosure 2 and returning it to the FOI Directorate.

Rights of review


FOI Disclosure Log

22. In accordance with the requirements of section 11C of the FOI Act, Defence is required to publish details of information released under the FOI Act. Defence publishes identified documents relating to requests within two working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions.

Further advice

23. Should you have any questions in regard to this matter please contact me directly on (07) 3332 6359. Alternatively, the FOI team can also be contacted on the details at the top of this letter.

Yours sincerely

[Signature]

Theresa Stinson
Assistant Director – Media Case Management
Freedom of Information

15 February 2012

Enclosures:
1. Relevant sections of the FOI Act
2. Credit Card form