



AASB 124 RELATED PARTY DISCLOSURES DATA COLLECTION FORM GUIDANCE BOOKLET – STAFF DESIGNATED KMP

PURPOSE

This Guidance Booklet provides assistance to staff who are considered Key Management Personnel of ACT Government controlled entities, in completing the Data Collection Form for related party disclosures. The material in this booklet is to be read as general guidance about related party disclosure requirements.

BACKGROUND

The ACT Government prepares financial statements in accordance with accounting standards issued by the Australian Accounting Standards Board (AASB). The AASB has amended the scope of its related party disclosures accounting standard (*AASB 124 Related Party Disclosures*) to include related party disclosures for not-for-profit (NFP) public sector entities. The new requirements apply to all ACT Government controlled entities from 1 July 2016.

The objective of AASB 124 is to ensure that financial statements of entities contain disclosures necessary to draw attention to the possibility that its financial results may have been affected by the existence of related parties, and by transactions with such parties.

Primarily, AASB 124 requires disclosure of summarised details about Key Management Personnel (KMP) remuneration, and certain transactions with related parties, in ACT Government controlled entities' financial statements. Accordingly, information on transactions between ACT Government controlled entities and their relevant Directors-General (D-Gs), Chief Executive Officers (CEOs), and other staff designated as KMP, as well as their close family members and entities controlled/ jointly controlled/ significantly influenced by them, needs to be collected.

Compliance with AASB 124 requires more detailed personal information than what is currently covered in existing declarations. A Data Collection Form (Form) has been developed to collect the required information. This Guidance Booklet accompanies the Form and aims to assist with its completion.

The provision of this information is on a voluntary basis, with the express consent from you and, where relevant, from your close family members. The information collected will form the basis of an entity's disclosures in relation to related party transactions in its financial statements (which are subject to audit by the ACT Audit Office). If the information required by the Standard is not provided, this will need to be disclosed in the relevant ACT Government controlled entity's financial statements. The ACT Audit Office may inquire into the disclosure.

It is important to note that this Form does not replace the existing conflict of interest declaration requirements. Information that may not be required by the Data Collection Form may still need to be declared as part of existing conflict of interest declaration processes.

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The information collected will form the basis of an entity's disclosures in relation to related party transactions in its financial statements, and will be subject to audit by the ACT Auditor-General. Not all information collected from KMPs is expected to be disclosed in the relevant entity's financial statements. Items of a similar nature may be aggregated except where separate disclosure is necessary. Information collected that is not considered material for disclosure in the impacted entity's financial statements may not be disclosed. A draft disclosure note is provided to assist with understanding what might be disclosed in an entity's financial statements. The actual note may vary on a case by case basis.

RELATED PARTIES

KEY MANAGEMENT PERSONAL (KMP)

D-Gs, CEOs, Officers of the Assembly and Territory Authority Boards are KMP of the ACT Government controlled entity under their responsibility, as they have the authority and responsibility to plan, direct and control the activities of that specific entity. D-Gs and CEOs will need to exercise judgment in assessing whether other positions (for instance, statutory office holders, management boards, and executive and non-executive positions, etc) are also KMP. Staff occupying positions deemed KMP of their relevant ACT Government controlled entity complete this Form.

Positions delegated operational authority for specific functions of the entity will generally not be considered KMP.

CLOSE FAMILY MEMBERS

Close family members of a KMP of an ACT Government controlled entity are related parties of the relevant ACT Government controlled entity. Your close family members include:

- your children (including step, adopted, dependant/non-dependant, adult children living/not living at home);
- your spouse or domestic partner (including married, de-facto, civil union partnerships but excluding separated or divorced spouse or partner);
- children of your spouse or domestic partner;
- your dependants, including dependants of your spouse or domestic partner (i.e. family members financially supported by you or your spouse or domestic partner and may include siblings, elderly parents/grandparents, or disabled family members); and
- other family members i.e. those outside the immediate family that may be expected to influence, or be influenced by your decisions in dealings with the entity.

The definition of close family members included in AASB 124 is broad and may include family members outside your immediate family such as siblings, grandparents, in-laws, etc that may be expected to influence or be influenced by your decisions in dealings with the relevant ACT Government controlled entity.

ENTITIES IN WHICH CONTROLLING INTERESTS (INDIVIDUALLY OR JOINTLY)

Entities in which you the KMP and/or your close family members have controlling interests are related parties. Control is evidenced by:

- the existence of power over the relevant entity;
- exposure or rights to variable financial and non-financial returns from involvement in the relevant entity; and
- the ability to use the power to direct the relevant entity's operations that can significantly impact its returns.

All facts and circumstances need to be considered in assessing whether or not control exists. An entity controlled or jointly controlled often means you and/or any close family members hold 50% or more of the shares or 50% or more voting power in the entity (whether individually or combined). However, if the remaining shareholding is widely dispersed then you and/or your close family members may be deemed to have controlling interest. Types of entities include companies, partnerships, sole traders, and not-for-profit entities.

Examples of entities controlled or jointly controlled by you and/or your close family members include:

- a company where you have 30% voting shares and your spouse has 30% voting shares resulting in the combined shareholding greater than 50%;
- a business operated by your close family member as a sole proprietor;
- a partnership of two people where your spouse is one of the partners ; and
- a trust where you and your spouse are two of three trustees.

Examples of entities not controlled or jointly controlled by you and/or your close family members include:

- a company where you have 25% voting shares and your spouse has 20% voting shares because the combined shareholding is less than 50%;
- a partnership of three people where your spouse is one of the partners;
- a large accountancy practice with multiple partners where your child is a partner;
- a trust where you and your spouse are two of five or more trustees;
- a non-government company where your son/daughter is the chief executive and has minor voting shares (i.e. less than 50% voting power in the company); and
- a non-government company where your spouse is a director of the board and has minor voting shares (i.e. less than 50% voting power in the company).

In considering each possible related party relationship, attention must be given to the substance of the relationship and not merely its legal form.

- Two entities are not related parties simply because they have a member of the KMP in common or because a KMP of one entity has significant influence over the other.
- A customer, supplier, distributor or general agent with whom the ACT Government controlled entity transacts a significant volume of business, is not a related party simply by virtue of the resulting economic dependence.

SECTION 1 YOUR DETAILS

Provide your full name and details of the position you hold as KMP as well as the ACT Government controlled entity in which you hold the position.

There may be instances where you are designated KMP in more than one ACT Government controlled entity. Provide details of each KMP position and names of the relevant entities.

All D-Gs, CEOs and other staff designated as KMP of ACT Government controlled entities are requested to complete this Data Collection Form. Cabinet Ministers and Head of Service complete a different form and not this Form.

SECTION 2 YOUR INTERESTS, DETAILS OF CLOSE FAMILY MEMBERS, AND THEIR INTERESTS IN ENTITIES

2.1 YOUR INTERESTS

Provide details of organisations/entities in which you the KMP have controlling interests (individually or jointly).

See guidance provided under Related Parties – Entities in which Controlling Interests (individually or jointly) for understanding what entities to include here. You are requested to provide details of all such organisations/ entities regardless of whether or not there were any transactions with the ACT Government controlled entity in which you are a KMP.

2.2 DETAILS ABOUT YOUR CLOSE FAMILY MEMBERS AND THEIR CONTROLLING INTERESTS AND /OR EMPLOYMENT DETAILS

- Close family members' names and relationship to you – Provide full names of all your close family members and their relationship to you, for example, Karen Smith - Spouse, etc. See guidance under Related Parties - Close Family Members to understand who is a close family member to you.

You are not required to provide names of close family members who are under the age of eighteen years, for example, your children under 18 years.

Where you have a spouse or domestic partner for only part of the reporting period, related party information is needed only for the period during which they were a spouse or domestic partner within the reporting period.

- Employment Details of close family members - Provide name(s) and employment details of your close family member(s) employed at an Executive level by the ACT Government entity(s) in which you are a KMP. Also, provide details of any involvement you may have had in their appointment.

For example, employment of your wife as an Executive in the entity in which you are KMP is required. However, employment of your sister-in-law as an Executive in the entity in which you are KMP is not required unless she may influence or be influenced by you. This is because a sister-in-law will usually not fall within the scope of a close family member.

- Names of organisations in which your close family members have controlling interests and details - see guidance provided under Related Parties – Entities in which Controlling Interests (individually or jointly) for understanding what entities to include here. Details required include name of the entity, percentage of shareholding (individually/ jointly) and ABN/ACN number of the entity.

You are requested to provide details of all such organisations/ entities regardless of whether or not there were any transactions with the ACT Government controlled entity in which you are a KMP.

SECTION 3 ASSESSMENT

This section provides a checklist for the different types of transactions that you or your close family members (including close family members less than eighteen years of age) and/or organisation that you listed under **SECTION 2** above might have had with the ACT Government controlled entity(s) that you are KMP of.

The list is not exhaustive and may include other transactions.

If you answer 'Yes' against any item in the checklist, you are requested to provide details of the related party transaction in **SECTION 4**. If you answer 'No' against all the items listed, you can proceed to **SECTION 5** and then to **SECTIONS 6 and 7**.

THRESHOLD FOR TRANSACTIONS TO BE DISCLOSED

For items 3.1 to 3.4 (listed below) a threshold of \$10,000 (including GST) applies unless the transaction is otherwise considered to be significant by nature. Details of these transactions need to be provided in **SECTION 4** where the total value of the transaction is greater than or equal to \$10,000 (including GST).

In determining the amount of the transaction, the actual transaction amount should be used, unless there is evidence that the actual value is significantly different to the market value. In these circumstances the market value should be used. Market value is the amount that knowledgeable, willing parties in an arm's length transaction would pay when a good, service or business is sold, purchased or exchanged.

Details of transactions that may individually be below the threshold but which in total accumulate to more than \$10,000 (including GST) also need to be provided.

Transactions significant by nature are to be disclosed even if they are below the threshold. Transactions considered significant by nature require judgement and will need to be assessed on a case by case basis. A transaction may be significant by nature where there is potential for influence and potential benefits to related parties or where it could change the strategic direction of the entity or influence the policies and operations of the entity. KMP are requested to provide details of all such transactions without regard to the underlying amount of the transaction. Where unsure whether the transaction is or is not significant by nature, KMP are requested to provide details of the transaction, to allow consideration of the transaction for reporting purposes.

Example of transaction that may be considered significant by nature - Consultancy advice provided by a firm in which the D-G's (of X Directorate) spouse is one of the two partners for

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fees of \$5,000 (i.e. below the threshold) relating to a policy being considered by the X Directorate, may be considered significant by nature particularly if the firm could benefit from a future contract following implementation of the policy advice.

Details of all other transactions listed below are requested to be provided regardless of the amount of the transaction.

TRANSACTIONS TO BE DISCLOSED

The following is the list of transactions between a related party and an ACT Government entity, for which KMP is requested to provide details in **SECTION 4**:

- 3.1 Purchases and sales of goods (finished or unfinished) from/ to an ACT Government controlled entity.

Example – the son of an Executive, who is deemed KMP of the X Directorate, owns an IT company and sells computers to that Directorate.
- 3.2 Purchases or sales of property and other assets from/ to an ACT Government controlled entity.

Example – a block of commercial land sold by the Z Agency to a KMP's close family member.
- 3.3 Rendering or receiving of services to/from an ACT Government controlled entity.

Example - the spouse of the D-G of the Y Directorate providing cleaning services to the Y Directorate.
- 3.4 Leases to/ from an ACT Government controlled entity.

Example – an office building owned by the KMPs family is leased by the directorate.
- 3.5 Transfers of research and development, transfers under licence agreements and transfers under finance arrangements (including loans and equity contributions in cash or in kind) to/ from an ACT Government controlled entity.
- 3.6 Ex-gratia payments or grants or subsidies received/ given from/to an ACT Government controlled entity.

Example – a selective scholarship granted by a directorate to the child of one of the directorate's KMPs.
- 3.7 Guarantees, indemnities or collateral received from/given to an ACT Government controlled entity.

An indemnity or a guarantee is a legally binding promise of one party to assume responsibility for a debt or performance of an obligation of another party should that party default in some way. Guarantees generally relate to the payment of money, but may alternatively or in addition require the performance of services.

Collateral means something pledged as security for the repayment of a loan which may be forfeited in the event of a default.
- 3.8 Receive/provide voluntary work from/to any ACT Government controlled entity.
- 3.9 Commitments to do something which is contingent upon whether an event occurs or does not occur in the future, with an ACT Government controlled entity.

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- 3.10 Settlement of liabilities on behalf of an ACT Government controlled entity or by an ACT Government controlled entity on behalf of that related party.
- 3.11 Any debts forgiven or partially forgiven by an ACT Government controlled entity.
Example – waiver of a debt due from the KMP's close family member.
- 3.12 Memberships in a governing body of any ACT Government controlled entity.
Example – A close family member of a KMP is a member of a government board or an equivalent body of the ACT Government controlled entity in which the KMP is employed.
- 3.13 Receipt of dividend income or payment of dividends to an ACT Government controlled entity.
- 3.14 Receipt/recognition of entitlement of interest income for or incurrence of interest expense to/from ACT Government controlled entity.
- 3.15 Other related party transactions.

The above is not an exhaustive list of transactions and may include other transactions.

TRANSACTIONS NOT TO BE DISCLOSED – CITIZEN TRANSACTIONS

Transactions which are **not** considered related party transactions are those which are typical citizen transactions and are not required to be disclosed in this Form. These transactions are where you as the KMP and/or any close family members interact with an ACT Government entity in the capacity of a citizen. No discretion is applied and no influence is exerted by the related parties over the terms and conditions of these transactions. Examples include, buying a bus ticket, receiving public health/education services, receiving public housing, paying licence fees etc

SECTION 4 TRANSACTION DETAILS

You are requested to provide the required details for the transactions against which you answered 'Yes' in **SECTION 3**.

If you are KMP of multiple ACT Government controlled entities (as listed in **SECTION 1.3**), please provide the transaction details for each entity on a separate sheet.

Provide details associated with the terms and conditions of the contract for the transaction, including the following:

- Terms – applicable to the contract please provide details about negotiated/varied terms.
- Secured or unsecured.
- Nature of consideration- settlement of the outstanding balances i.e. bank transfers or payment in kind.
- Procurement approach - i.e. single select, three written quotes, tender (including type), other etc.

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- Whether you, the KMP were involved in any aspect of the transaction (for example, the approval of the arrangements, contracts etc or assessment of work performed under the arrangement).
- Whether the terms and conditions were more or less favourable than in an arm's length transaction.

SECTION 5 ADDITIONAL INFORMATION

Here you may provide additional/ any other information you may consider relevant for the purposes of disclosure under AASB 124. Examples include the following:

- a block of land is gifted to an organisation controlled by a close family member of a KMP will be disclosed by the KMP under this section.
- a number of close family members are employed (whether or not at the Executive level) within an ACT Government controlled entity (whether or not you are KMP of that entity) and/or where you may have had involvement in their appointment, will be disclosed by the KMP under this section.

Under this section, you may also include reasons why you have not disclosed any related party transactions or you consider information may have been withheld from you.

SECTIONS 6 AND 7 DECLARATION AND CONSENT FROM EACH CLOSE FAMILY MEMBER

You must read this declaration carefully and then sign-off in the space provided.

Your information is private and confidential, requiring you to give informed consent in relation to the provided information. Your close family members' information will require the informed consent if their information is provided in **SECTION 4** of the Form. However, consent is not required if the only information included is in **SECTION 2** in relation to the name and employment details of close family members where there are no related party transactions associated with that close family member, listed in **SECTION 4** of the Form.

The declaration provides that you have provided your information to the best of your knowledge; you have made enquiries of your close family member(s) and to the best of your knowledge all the information recorded in the Form is an accurate record of those enquiries; the purpose that the information is being collected for and acknowledge that the information may be used for disclosure in ACT Government entities' financial statements.

Where information in the draft disclosure can be identified as concerning you and/or your close family member(s), you and the affected family member will be given the opportunity to review the disclosure prepared for the financial statement. You may request that the disclosure be corrected, amended or withdrawn. You have the right to request to review the information held by the Territory at any time.

In signing the Form, you and the affected family member are acknowledging that you have completed the Form and understand the purpose the Territory has in collecting the information.