

Insley, Kara MTIC:EX

From: Hoskins, Chad MTIC:EX
Sent: April-29-13 4:27 PM
To: MTIC IAO FOI
Cc: Williams, Brad M MTIC:EX
Subject: New Procedures for Handling No Records Responses
Attachments: IAO Action Plan for Managing No Records Responses.docx; Cross-Government Requests: Ideas to help identify where records have been located

Importance: High

Follow Up Flag: Follow up

Flag Status: Flagged

Good afternoon,

As a result of the OIPC's recent investigation into the increase in no records responses, we have implemented some new procedures to better assist FOI applicants. You will find 2 documents attached to this email:

1. IAO's response to each of the Commissioner's recommendations and what IAO will do to respond.
2. Email and word version of instructions for coordinating x-govt request responses.

A new template has also been created to help respond to x-govt requests that have no records responses from one or more ministry. It is available at: K:\General\FOI Templates and Forms\Generals\Response.

If you have any questions about these new procedures, please feel free to contact myself, or your manager/team lead.

Thanks, Chad

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IAO Action Plan for Managing “No Records” Responses to FOI Requests

Information Access Operations (IAO) will work with its client ministries to further improve the consistency of responses to FOI applicants where ministries have no responsive records.

Options identified below for addressing each of the OIPC recommendations are not mutually exclusive. When responding to a given FOI request, one or more of these options may be utilized, depending on the circumstances of the request file.

OIPC Recommendation 1: *I recommend that IAO communicate to an applicant when it is aware that the records the applicant is seeking exist within a different ministry than from where the applicant has originally requested the records.*

DM Response: While I note your review found a single instance where IAO staff did not initially provide this information to the applicant, I appreciate your acknowledgement in the report that IAO staff provided the information to the applicant in a follow-up email. We commit to having IAO make every effort to direct applicants to the ministry that has, or is most likely to have custody and control of the requested records. It is important to note, despite these efforts, applicants retain the right to direct their access request to any public body.

Action Plan Options:

- Transfer clearly-misdirected requests to the correct ministries, pursuant to FOIPPA section 11.
- Where requests appear to have been misdirected, advise applicants and ask if they are willing to redirect or withdraw, and note these discussions in the request files.
- Continue to encourage client ministries to complete the appropriate section of the Call for Records form (about records potentially held by other ministries).
- Where responsive records are known to be held by other ministries, advise applicants of same in response letters.

OIPC Recommendation 2: *I recommend that IAO should be reasonably confident that before narrowing a request, the result will not deprive applicants of records they would otherwise receive, unless IAO informs the applicant that this may be the case.*

DM Response: IAO will work closely with ministry clients to ensure that narrowing requests do not unfairly deprive applicants of the records they are seeking.

Action Plan Options:

- Work with client ministries and obtain their confirmation that request narrowing recommendations to applicants will not lead to “no records” responses.
- Where “no records” responses are deemed likely to result from applicant narrowing decisions, advise applicants accordingly as soon as possible.

OIPC Recommendation 3: *I recommend that IAO ensure that it interprets requests (including those for government calendars) broadly enough to assist the applicant in obtaining the records he or she is seeking.*

DM Response: I agree with this recommendation and where it is clear from the request that the applicant may be seeking records that are not specifically mentioned in the request wording, IAO staff will make every effort to direct the applicant to the correct records.

Action Plan Options:

- Work with applicants and client ministries to ensure that requests are not interpreted too narrowly, and note these discussions in the request files.
- Request clarification from applicants when the scope or breadth of their requests is unclear or subject to interpretation; confirm those clarified requests in writing, and communicate same to the client ministries.

OIPC Recommendation 4: *I recommend that where government does not have records responsive to an access request, IAO provide an explanation to the applicant as to why this is the case.*

DM Response: I support the intent of this recommendation and commit, in those instances when requests are forwarded to multiple ministries and responsive records are located from at least one public body, to ensure that the response letter to the applicant is clarified. We believe this will address the vast majority of files. We will discuss further with you and your staff other possible ways to address this recommendation for other files.

Action Plan Options:

- Continue to encourage client ministries to provide explanations for “no records” responses, and include those explanations in response letters to applicants.
- Acknowledgement letters for multi-ministry requests will advise applicants that it is possible that not all ministries/processing orgs that they selected will have responsive records, and will ask that they await responses from all selected ministries/processing orgs before considering the processing of their requests to be complete.
- Before issuing “no records” responses from ministries, analysts will determine whether any other ministry/processing org that received the same request has responsive records and, if so, will include that information in the response letter for the file they are processing [template]. [Action Plan for OIPC Recommendation 6 addresses recording this type of disposition in the request tracking system.]

OIPC Recommendation 5: *I recommend that government create a legislative duty within FIPPA to document key decisions as a clear indication that it does not endorse “oral government” and that it is committed to be accountable to citizens by creating an accurate record of its actions.*

DM Response: You will be aware that the Special Committee to Review the Freedom of Information and Protection of Privacy Act, made up of all parties of the legislature, met in 2010 and reviewed submissions on changes to the FIPPA. Many of the organizations identified in your report made submissions to the Special Committee on this point. The Special Committee’s final report (2010) did not include a recommendation to government on this topic. We will examine this recommendation but would also suggest that it be considered by the next scheduled Special Committee. I note that no other access to information legislation in Canada has such a duty prescribed in law.

Action Plan Option:

- The OCIO will examine this recommendation for a change to the governing legislation.

OIPC Recommendation 6: *I recommend that the IAO develop a classification system that more accurately reflects where an individual who has made the same request to multiple ministries ultimately receives the records they were seeking, irrespective of how many ministries respond that they do not have records.*

DM Response: I agree with this recommendation and going forward, IAO will more accurately classify no records responses on requests that are made to multiple ministries and where responsive records are located in at least one public body. As you note in your report, were we to apply this change retroactively, government’s analysis indicates the no responsive records rate across government would have increased by three per cent over the last three years.

Action Plan Options:

- Utilize existing criteria to determine which multi-ministry requests require central coordination.
- Issue response letters for ministries/processing orgs with no responsive records in accordance with the Action Plan for OIPC Recommendation 4.
- If responsive records are located in any ministry/processing org that is subject to the same request, analysts processing files with no responsive records will select the following new disposition category in the request tracking system: “Records in another min/org”.
- After all files sharing a cross-government request number are closed, a coordinator from IAO Intake will review all responses and ensure that the disposition code entered into the request tracking system for all such files is correct.
- This does not apply to x-government requests for calendars and direct award contracts.

CROSS-GOVERNMENT REQUESTS:

HINTS AND TIPS TO READILY IDENTIFY WHERE RECORDS HAVE BEEN LOCATED

In SHORT:

- X-Govt Team Reps will work together on Tuesdays and Thursdays to share information;
- Teams will use either IAO reviewing records OR IAO preparing no records response as the Executive Comment for the Reviewing Records activity on CRTS to indicate whether or not records have been located;
- Teams will update a shared list on the X-Govt Repository indicating whether or not records have been located for each file involved in a formal x-govt request.

THE DETAILS:

1. Team Rep at X-Govt coordination meetings:

We will include conversation and/or discussion pertaining to which ministry may be known to have the greatest interest and/or bulk of the responsive records, if known from the start; This information will be included in the Record of Decisions, where provided. Once the requests are under way, team reps will bring to the table any updates pertaining to information confirming or identifying the ministries or orgs with records and/or the greatest interest. Reps will then disseminate this information to their teams, as appropriate.

2. Analyst or Administrator facilitating CFR responses:

A list of the files opened under any x-govt number will have an additional document placed in the Repository.

This document should be updated (edited) by each team as records are being provided and/or where NRR is being identified.

The list will be added to the X-Govt Repository. Search criteria should always be the X-Govt # *only* in order to capture the files and the Repository (i.e. Title Word search = 100520).

If teams are proactively updating this list, it should be relatively easy for everyone to see which ministry they can reference in their NRR response. This list will not limit a team member's ability (or obligation) to directly seek confirmation that records have been located in another IAO ministry or processing org, but should assist in making the process more efficient for everyone.

*Should a formal transfer pursuant to s.11 be more appropriate than a potential NRR, the transfer details should also be noted here as well.

Jackie and CindyK will work on adding the shared list for each of the most recent x-govt requests. We hope to have them added to the Repository within the next day or two. As well, we'll fill in where we can as time permits, but the idea is that teams start to edit the lists themselves.

3. CRTS and/or Dashboard searches for X-Govt or any multi-org request:

When the mandatory CRTS activity is updated to Reviewing Records, the usual Executive Comment has been "IAO reviewing records"; EWAS is ideally adding another option to the drop-down box called "IAO preparing no records response". This new comment should also help teams easily identify which ministries may have records, since an Executive Comment reading "IAO reviewing records" will be an indicator that records have been located and are being reviewed for responsiveness. While we await the addition of this new Executive Comment, we do ask that teams begin editing the existing comment to reflect either IAO reviewing records OR IAO preparing no records response.

As well, if a file is closed with full or partial disposition, it would be safe to conclude that records existed and were provided. Again I would always recommend a quick confirmation before sending a response, but hopefully these clues are helping to more easily identify where to go for confirmation.

4. Ongoing:

Moving forward, we'll continue to assess how this is working. If you or any of your team members has ideas as to how we can best/better share where responsive records have been located, please let us know at any time! In the meantime, let's give this a try! ☺

TRIM Search Criteria:

| Title Word | | 100520 |
|--|--|--------|
| <input checked="" type="checkbox"/> Record Number | Title (Free Text Part) | |
| <input checked="" type="checkbox"/> ARCS-00292-30/3023513A | OOP-2013-00288 X-Govt 100520 BC Cabinet Minister Communications | |
| <input checked="" type="checkbox"/> INFP-30100-30/16613A | X-Govt 100520 Repository | |
| <input checked="" type="checkbox"/> D21230013A | Call Rec - List of Files for Tracking, Records Located (shared) | |
| <input checked="" type="checkbox"/> D20567013A | Intake - Record of Decisions | |
| <input checked="" type="checkbox"/> D20552313A | Intake - Request | |
| <input checked="" type="checkbox"/> ARCS-00292-30/3033013A | EGM-2013-00116 X-Govt 100520 BC Cabinet Minister Communications | |
| <input checked="" type="checkbox"/> ARCS-00292-30/3033113A | FNR-2013-00134 X-Govt 100520 BC Cabinet Minister Communications | |
| <input checked="" type="checkbox"/> ARCS-00292-30/3033313A | MOE-2013-00103 X-Govt 100520 BC Cabinet Minister Communicatio... | |

The list looks like this:

LIST OF REQUEST FILE NUMBERS X-GOVT 100xxx

| File Numbers | Records Located? | Your initials | Optional Comment? |
|----------------|------------------|---------------|-------------------------------|
| FIN-2013-00xxx | Y | AB | |
| EGM-2013-00xxx | Y | CD | 500 pages |
| MOE-2013-00xxx | N | EF | NRR – Records located in EGM |
| OOP-2013-00288 | N | GH | Full transfer accepted by EGM |

| | | | |
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Thanks!
Cindy Kukucska

Cindy Kukucska, Manager, Consolidated Intake Team

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<http://www.gov.bc.ca/citz/iao/foi/process/>

Insley, Kara MTIC:EX

Subject: Cross-Government Requests: Ideas to help identify where records have been located
Attachments: X-Govt.docx

Hello. Please share with your teams regarding cross-government requests (X-Govt):

When processing formal X-Govt requests, we would like to find efficient and effective ways to readily identify where records are located.

The X-Govt team spent some time chatting about options (such as email exchanges, individual repeated searches on CRTS or TRIM, etc)

The following ideas have been put forward as possible solutions and are to be implemented immediately please.

In SHORT:

- X-Govt Team Reps will work together on Tuesdays and Thursdays to share information;
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




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|  D21230013A | Call Rec - List of Files for Tracking Records Located (shared) |
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