



**CANADIAN FEDERATION
OF INDEPENDENT BUSINESS.**

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7 April 2014

The Hon. Bill Bennett
Minister of Energy and Mines and Minister Responsible for Core Review
PO BOX 9069
STN PROV GOVT
VICTORIA, BC V8W 9E2

Dear Minister Bennett,

As you may know, the Canadian Federation of Independent Business (CFIB) is a non-profit, non-partisan business association that seeks to give independent business a greater voice in determining the laws that govern business and the country. With 109,000 members across Canada, including 10,000 in British Columbia.

Laura Jones, Executive Vice President and I would appreciate the opportunity to meet with you and Deputy Minister for Core Review Kim Henderson to advocate for the implementation of CFIB recommendations submitted to government with respect to BC's Core Review process. A written submission on CFIB's recommendations will be sent to your office in the days ahead.

My assistant, Sean Rognon, can be contacted to arrange a mutually convenient meeting time.

I look forward to meeting with you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike', followed by a long, wavy horizontal line that ends in a small dot.

Mike Klassen
Director of Provincial Affairs, British Columbia
Canadian Federation of Independent Business



June 10, 2013

Honourable Bill Bennett
Minister of Energy and Mines
and Minister Responsible for Core Review
Parliament Buildings
Victoria, British Columbia
V8V 1X4

Dear Colleague:

Congratulations on your new appointment as Minister of Energy and Mines and Minister Responsible for Core Review.

British Columbians have asked us to build a strong economy, a secure tomorrow and a lasting legacy for generations to come. Now it's time to deliver.

We must be alive to the challenges of a fragile global economy. We have a duty to be disciplined for taxpayers today, and a responsibility to be fair to future generations. Protecting British Columbia for us and our children means making tough choices now to control spending and balance the budget. By charting a course for a debt-free BC, our children can be free to make their own choices when it's their turn to lead.

To grow our economy and create high-paying jobs for British Columbians, I am asking you to keep your ministry focused on the *BC Jobs Plan*. Our province is blessed with both abundant natural resources, and the resourcefulness and diversity of our people and businesses. We have a generational opportunity to develop Liquefied Natural Gas. This will demand determination and purposeful work.

We are committed to building a strong economy in the province because we know that it is the only way we will be able to afford strong public services for our citizens. World class health care, education, skills training and social safety nets are only possible if we have an economy that can sustain them over the long term.

To that end our first priorities across government are:

- To bring back the legislature to pass *Balanced Budget 2013*;
- To ensure that government does not grow;

- To conduct a core review of government to make sure we are structured for success on all of our objectives; and
- To eliminate red-tape so that we can get to yes on economic development without needless delay.

In the course of our decision making we must always maintain respect for taxpayers and remember that our fellow British Columbians are looking to us to help make life more affordable for them and their families.

These priorities, along with your specific ministerial objectives, will allow us to achieve results that reflect our shared values.

The ministry of Energy and Mines is critical to the economic development of our province. W.A.C. Bennett had the foresight to turn our province's abundant water resource into hydroelectricity sixty years ago. Today, we still benefit from the investments that were made during his term in office. In fact, you will be dealing with one of his significant legacies—the Columbia River Treaty as we approach—the 50th anniversary of the treaty and potential changes upon the 60th anniversary in 2024.

Last year, BC Hydro underwent a review of its operations in order to minimize rate increase impacts on consumers. Your role will be to continue to drive cost containment and financial discipline at BC Hydro while recognizing that major projects will be required to upgrade and build new generation capacity to power economic development, including LNG projects, across our province.

In our *BC Jobs Plan*, we have set aggressive targets for the mining sector. In order to meet these goals we will need to ensure our 'one project, one process' is executed to foster a single assessment that can get to certainty for investors in a faster way while maintaining rigorous environmental standards. This will require your ministry to work closely with the ministry of Forests, Lands and Natural Resource Operations to quickly identify obstacles to permitting and other governmental obstacles to project development.

In your role as Minister of Energy and Mines I expect that the following initiatives are completed by you and your ministry over the coming years:

1. Balance your ministerial budget in order to control spending and ensure an overall balanced budget for the province of British Columbia.
2. Conclude the provincial consultations on the Columbia River Treaty and present options to Cabinet on any improvements that can be made to the Treaty.
3. Work with the ministry of Aboriginal Relations and Reconciliation to continue to sign mineral tax sharing agreements with First Nations to encourage mine development across the province.

4. Continue to develop the Site C dam project and support it through the environmental assessment review process.
5. Complete the Northwest Transmission Line and Iskut Extension.
6. Continue to find efficiencies at BC Hydro, reporting these findings to Cabinet.
7. Minimize rate increases to consumers and industry at BC Hydro while continuing to replace and build hydroelectric and transmission infrastructure.
8. Work with the Clean Energy sector to ensure that there remain significant opportunities for renewable energy companies to provide power to British Columbia.

As committed in *Strong Economy, Secure Tomorrow*, our government will undertake a core review of government to ensure we are using our resources to the best of our ability to deliver on the priorities of British Columbians. This will require difficult decisions to be made. However, this work is necessary in order to control government spending and ensure we are in the best financial position possible to deliver balanced budgets for the people of our province.

You will work closely with my office and the Minister of Finance who will identify staff from his ministry that will undertake the work you direct. As well, you will have resources from my office that will also be able to assist you in this task. While you will be free to identify the areas of government you wish to review, I expect that you will work closely with Priorities and Planning and the Cabinet Committee on Core Review to ensure you receive the assistance of your Cabinet colleagues in this important work.

The goal of the core review is simple: free up as many resources in government as possible to redeploy to our core objectives as government or provide flexibility to the Minister of Finance as he manages the provincial books.

In addition, I would like you, as you undertake this work, to also consider regulatory reform and other de-regulation options that are presented. Our government can be proud of the significant de-regulation work we have undertaken since we were first elected, but we must continue to find ways to innovate and deregulate while maintaining high public confidence in our environmental, employee and public safety regimes.

In your role as Minister Responsible for Core Review, I expect that you complete the following tasks over the coming months:

1. Work with my office and the Minister of Finance to identify a core team to undertake the core review work.
2. Develop a core review plan and present to Priorities and Planning by August 30th, 2013.
3. Provide core review updates to Cabinet on a monthly basis identifying opportunities for savings or redeployment and their associated cost benefits.

4. Complete the core review process by December 31, 2014.
5. Make recommendations to Cabinet on how to improve our regulatory reform and red tape reduction initiatives.

I have outlined in a separate letter my requirements for conduct of all members of Cabinet. It is imperative that you review and understand this letter, and the *Members' Conflict of Interest Act*, and that you act in accordance with both as you carry out the duties of a Minister of the Crown. I will evaluate any circumstances that may call into question the conduct of a Minister against the expectations and obligations set out in applicable statutes and this letter.

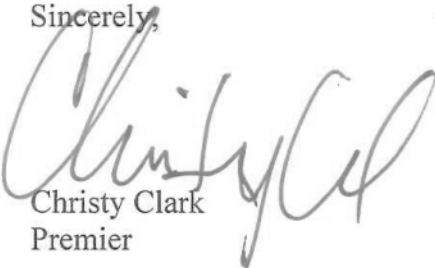
To assist you in the transition to your new role, I ask that you also review the attached document that provides further direction for you as a Minister.

I look forward to discussing your ideas and priorities for your ministry in the coming weeks and working with you to fulfill the mandate we were elected to fulfill.

Our government faces many exciting challenges and opportunities in the months ahead. Our success will be defined by our ability to develop and implement an agenda that reflects priorities and circumstances of BC citizens. Our ability to make this connection is a function of the degree to which we engage citizens and stakeholders in pursuing change. I am confident that we will succeed in this, and have every expectation that you will make a significant contribution to our success.

I look forward to working with you.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Christy Clark', written in a cursive style.

Christy Clark
Premier

Attachments (2)

Direction for Ministers

In addition to the expectations outlined in your mandate letter, please find additional direction to guide you in your duties as a Minister.

a) Caucus Participation and Engagement

I have an expectation of all Ministers to actively engage the government caucus and ask that you routinely seek their input on policy considerations within your portfolio. I encourage you to look for opportunities where private members may assist you with your duties, and will expect each member of Cabinet to facilitate a caucus engagement session in which ideas are shared and solicited on at least a quarterly basis.

In accordance with the expectations above, I remind all Ministers of the importance of their responsibilities as members of the Legislature and the Government Caucus. Attendance at Caucus is mandatory.

b) Parliamentary Secretaries

In the event your ministry is assigned a Parliamentary Secretary (PS), it will be your responsibility to prepare your PS for a Cabinet role in the future. Parliamentary Secretaries are assigned to assist you in your role. Please ensure that the duties they are assigned are as specific as possible and that they are provided with the tools and support they need to fulfill their duties and prepare for new roles in our government.

c) Cabinet Committees

You will receive your committee assignments by way of a separate letter. The cabinet committee structure aligns with our commitment to growing our economy as outlined in *Strong Economy, Secure Tomorrow*.

Cabinet Committees will continue to involve private members, and will be expected to meet regularly to consider and shape policies and legislation in key areas of focus. As a Minister, I expect that you will play a leadership role in ensuring that the committees you sit on play an active and strategic role in defining the priorities of government.

d) Ministers' Office Staff

Each Minister's Office will be provided with staff that will include a Chief of Staff, Ministerial and/or Executive Assistants, administrative support staff, and a Communications Director from your Ministry.

All staff in Ministers' offices will be appointed by OIC, however, only the Chiefs of Staff, Ministerial and Executive Assistants will be political appointees. The Communications Director will provide ongoing communications support to you in the execution of your responsibilities,

Staff assignments are being finalized, and are the responsibility of my Chief of Staff, Dan Doyle, and Deputy Chief of Staff, Michele Cadario. I would encourage you to contact them should you require any clarification on staffing in your office.

e) Political / Caucus Communications

Implementation of the government's agenda will be coordinated by the Director of Communications in the Premier's Office, who will work closely with Government Caucus Communications to ensure that all government MLAs are able to communicate in an integrated fashion.

f) Executive Staff

Deputy Ministers have been appointed by OIC and are effective in their roles as of today. Dave Nikolejsin will serve as your Deputy Minister. He will have a dual reporting relationship to you and to my Deputy Minister, John Dyble.

Deputy Ministers or Assistant Deputy Ministers and equivalents are appointments of the Premier. As such, any further changes to these positions will be coordinated by my Deputy Minister.

A clear understanding of the role of the Public Service vis-à-vis that of Ministers is of crucial importance in carrying out the responsibilities you have been given. Public Servants must maintain your confidence and respect and are in your service as providers of good policy advice and executors of government directions and programs. However, they are not your political advisors. As a Minister your role is to provide overall direction to your Ministry in accordance with the government's mandate, and to ensure that issues are identified and properly analyzed for resolution by you or by Cabinet where resolution requires a broader policy or political lens.

In finding the right balance of oversight, you must avoid taking on the role of chief executive officer of your Ministry. That is the role of your Deputy Minister. I would encourage you to engage John Dyble, the Deputy Minister to the Premier and Cabinet Secretary and Head of the Public Service, should you require any further clarification on this division of responsibilities.

In order to ensure that ministries are executing on the priorities of government effectively and continue to find new ideas, I have created a new Policy Coordination Office (PCO) to support my office and Cabinet. I expect your Ministry to work cooperatively with this new PCO as we implement our plan and improve the economy of British Columbia.

Members of Executive Council
Code of Conduct/Ethics

To: Honourable Bill Bennett
Minister of Energy and Mines and
Minister Responsible for Core Review

From: Premier Christy Clark

Subject: Code of Conduct and Ethics

Effective Date: June 10, 2013

This letter is intended to ensure you are aware of my expectations of your conduct as a Minister in my Cabinet.

The guidelines in this letter are based on legal requirements, such as the *Members' Conflict of Interest Act*, as well as my expectations as Premier. As a member of Cabinet you have a responsibility to be familiar with and to comply with the law. I will expect compliance not just with the letter but also with the spirit of the guidelines outlined here. I would like you to read these guidelines, and sign this letter as acknowledgement that you will observe them and meet these expectations as a condition of holding your office.

For your information, a more detailed explanation of these matters pertaining to conducts and ethics is included in the attached summary.

I also expect you to make yourself familiar with the *Members' Conflict of Interest Act* and to file all disclosures with the Conflict of Interest Commissioner as required under the *Act*.

RESPONSIBILITIES AND VALUES

Our Government is committed to providing fair, professional and respected governance. We are all expected to maintain the highest standard of conduct and we must make our decisions in a way that is beyond reproach.

I expect you and all of your colleagues to act with honesty and to uphold the highest ethical standards to enhance and uphold public confidence and trust in the integrity, objectivity and impartiality of government.

I expect you to perform your official duties and arrange your private affairs in a manner that will bear the closest and most critical public scrutiny. I want you to not only meet this obligation, but also to exceed it.

CONFLICTS OF INTEREST - REAL AND PERCEIVED

As a Minister in my Cabinet, you are required by law to avoid any situation where you exercise an official power or perform an official duty or function knowing that in doing so there is an opportunity to further your private interest.

In addition, our legislation clearly states that a member has a conflict if there is a reasonable perception which a reasonably well informed person could properly have, that your ability to exercise an official power or duty or function must have been affected by your own private interest. You must fully disclose immediately any real, perceived or potential conflicts to the Conflict of Interest Commissioner. The *Act* has broad disclosure requirements and you should become familiar with them to ensure complete compliance.

With this in mind, if you have a conflict of interest in a matter that is to be brought before Cabinet, or that arises at any time during Cabinet deliberations, you must disclose the general nature of the conflict and withdraw from the meeting without participating in any discussions. Your withdrawal will be noted in the Cabinet minutes. I expect you to review the Cabinet minutes each and every meeting to ensure that any such withdrawals are properly noted.

PREFERENTIAL TREATMENT

Do not allow yourself to be placed, or appear to be placed, under obligation to any person or organization that might profit from special consideration from a Minister.

When forming Government policy or making decisions, you must ensure that no persons or groups are given preferential treatment based on the individuals hired to represent them. This applies particularly to family members, friends or other acquaintances.

Many of the decisions made by a Minister are considered statutory decisions and can be subject to judicial review by a Court.

BUSINESS CONFLICTS

You may not continue practicing a profession or carry on a business or hold an office or directorship other than in a social club, religious organization or political party, if this is likely to conflict with your public duties. However, you can place your business in a blind trust approved by the Conflict of Interest Commissioner. You should consult with the Commissioner and obtain independent legal advice as appropriate if this applies to you.

CABINET AND CONFIDENTIALITY

Discussions you have at Cabinet are confidential, except where confidentiality is waived by Cabinet in accordance with the Oath that you swore on June 10, 2013. It is your responsibility to preserve this confidentiality and to ensure that it is not waived through inadvertent disclosure. Outside of the Cabinet room, you must not publicly disclose the substance of Cabinet deliberations or decisions that are before Cabinet, or provide any public opinions regarding the likely outcome of such deliberations except as authorized by Cabinet.

You will see in the *Members' Conflict of Interest Act* that you are legally prohibited from using information gained in the execution of your duties that is not available to the general public to further or seek to further your private interest.

ACCEPTING BENEFITS

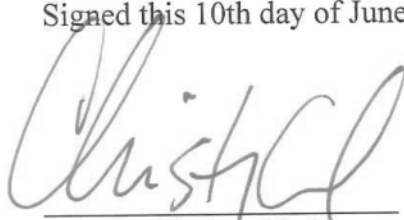
Under the *Members' Conflict of Interest Act*, you are forbidden to accept any fees, gifts, or personal benefits that are connected directly or indirectly with the performance of your duties of office, except compensation authorized by law. The ONLY exceptions are gifts or personal benefits that are received as an incident of protocol or social obligations that normally accompany the responsibilities of office. If a gift or personal benefit you receive through protocol or social obligation exceeds \$250, or if the total value received from one source in a year exceeds \$250, by law you must inform the Commissioner. Again, questions regarding this subject should be directed to the Commissioner.

BUSINESS RELATIONSHIPS

Further, you are forbidden to seek any advantage through improper use of business courtesies or other inducements. You will need to use your best judgement and moderation to avoid misinterpretation and possible adverse effects on your reputation as Minister or on the reputation of our Government. If there is ever any doubt you should ensure that you have obtained and acted in accordance with appropriate independent advice.

In conclusion, I trust that the above guidelines will inform your conduct at all times as they are a condition of serving in my Cabinet. As this letter touches on only a few of your legal responsibilities you should become familiar with your legal requirements as a Cabinet Minister and ensure that your conduct is within those limits at all times. If you have any further questions regarding these or any other matters, please do not hesitate to contact me.

Signed this 10th day of June, 2013


Premier Christy Clark
Minister

Attachment - Matters Pertaining to Standards of Conduct

Conflict of Interest

The *Members' Conflict of Interest Act* ("the Act") prohibits acting in an official capacity if a conflict of interest or an apparent conflict of interest exists. Members of the Legislative Assembly are expected to act in the public interest at all times, and must not use their official position for personal gain or advantage. The rules governing conflict of interest for Members are set out in the Act and ensure that those who are elected to public office are held to high standards of conduct.

A "conflict of interest" arises when a Member's duty to act in the public interest is or may be affected by his or her private interests.

In most cases, a "private interest" will be pecuniary in nature. However, a private interest can also be non-pecuniary, providing it confers a real and tangible benefit on the Member.

Members must avoid both actual and apparent conflicts of interest, and must arrange their private affairs to prevent such conflicts from arising. Members are expected to resolve any conflicts which do arise promptly and transparently. In determining whether an apparent conflict of interest exists, the Commissioner applies the objective test set out in s.2(2) of the Act: is there a reasonable perception in which a reasonably well informed person could properly have, that the Member's ability to exercise an official power or perform an official duty or function must have been affected by his or her private interest.

The Act includes the following prohibitions:

A general prohibition against conflicts of interest

A member must not exercise an official power or perform an official duty or function if the member has a conflict of interest or an apparent conflict of interest. (s. 3)

A prohibition against using insider information

A member must not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the member's private interest. (s. 4)

A prohibition against using one's influence inappropriately

A member must not use his or her office to seek to influence a decision, to be made by another person, to further the member's private interest. (s. 5)

A prohibition against accepting extra benefits

A member must not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office. (s. 7(1))

For **Cabinet members**, there is also a prohibition against carrying on business activities that may conflict with public duties:

A member of the Executive Council must not:

- a) engage in employment or in the practice of a profession,*
- b) carry on a business, or*
- c) hold an office or directorship other than in a social club, religious organization or political party*

if any of these activities are likely to conflict with the member's public duties (s.9(1)).

The Conflict of Interest Commissioner is an independent, non-partisan Officer of the Legislative Assembly who is responsible for independently and impartially interpreting and administering the Act. The current Commissioner is Paul D. K. Fraser, Q.C. He was unanimously appointed by the Legislative Assembly in 2008 and reappointed for a further 5-year term in 2013. He has made it clear that the principle work of his Office is to provide timely confidential compliance opinions and advice to members on potential conflict of interest situations. He has also urged Members to consult him in advance about any compliance concerns.

Disclosure Process

Section 16(1) of the Act requires that all Members of the Legislative Assembly of BC file a confidential disclosure statement with the Commissioner within 60 days of being elected, and after that annually. Members must complete a confidential disclosure form pursuant to the regulations to the Act which contains a statement of the nature of the assets, liabilities and financial interests belonging to the Member and his or her spouse. Separate disclosure forms are required if the Member has any minor children, and if the Member, his or her spouse or minor child has a controlled private corporation.

A key difference between the BC legislation and many other jurisdictions is that under BC's legislation, disclosure statements are qualitative rather than quantitative. That is, Members must disclose the *nature* of the assets, liabilities, and financial interests, not the value nor the amount or the worth of those interests.

Once a Member's confidential disclosure forms have been received by the Office, a meeting between the Member (and spouse if available) with the Commissioner is arranged. At the meeting, the Commissioner reviews the Member's disclosure statements with the Member to ensure accuracy and to discuss any questions or concerns.

Once the contents of the confidential disclosure statement have been finalized, a Public Disclosure Statement (PDS) is prepared. The PDS contains most, but not all, of the information contained in the Member's confidential disclosure statement, as well as a statement of any gifts or benefits that have been disclosed to the Commissioner since the Member's last filing. Certain information is excluded from the PDS, such as the Member's residential address and other personal information.

Once all the Members have reviewed and approved their PDS, they are filed with the Clerk of the House where they are available for public inspection.

The following members' forms can be found on the Conflict of Interest Commissioner's website at www.coibc.ca.

- Member's Confidential Disclosure Statement
- Disclosure Statement for Minor Children
- Controlled Private Corporation Statement
- Member's Statement of Material Change
- Member's Statement of Gifts and Personal Benefits

Ongoing Reporting and Disclosure Obligations:

Material Changes

After Members have filed their annual confidential disclosure statements, they have an ongoing obligation to report any material changes to their financial interests within 30 days of the change occurring.

A "material change" is defined as an acquisition or disposition, whether in whole or in part, occurring after the Member has filed a disclosure statement, of any asset, liability, financial interest or source of income by the Member, his or her spouse or minor children, or a private corporation controlled by any of them, if the change or event would reasonably be expected to have a significant effect on the information previously disclosed.

For example, Members should file a material change form with the Commissioner after acquiring a significant asset, making an investment, taking out a loan, paying off a loan, buying or selling shares or acquiring a new mortgage.

After reviewing the Member's material change form, the Office prepares a Notice of Material Change which is then filed with the Clerk of the Legislative Assembly, where it is attached to the Member's most recent PDS. A copy of the Notice is also sent to the Member.

Commissioner's opinions and recommendations on referred questions

The Act provides that requests for compliance or contravention opinions can be made to the Commissioner in the following circumstances:

- Requests by members about their own obligations under the Act (Section 18 (1))
- Requests by members about alleged contravention of the Act by another member (Section 19(1))
- Requests by a member of the public about alleged contravention of the Act by a member (Section 19(2))

The Executive Council may request an opinion respecting the compliance of a member of the Executive Council or a parliamentary secretary with the provisions of the Act (Section 19(3)). The Legislative Assembly may request a compliance opinion respecting a member (Section 19(4)).

Declaring a conflict that arises at a Cabinet or Committee of Cabinet meeting

The *Members' Conflict of Interest Act* requires that Ministers who have a conflict of interest or an apparent conflict of interest, or have reasonable grounds to believe that they have a conflict of interest must, if present at a meeting of Cabinet or any Committee of Cabinet:

1. Disclose the general nature of the conflict of interest or the private interest; and
2. Withdraw from the meeting without voting or participating in the discussion of the matter.

Ministers should ensure that the secretary to the meeting (Cabinet Secretary, Secretary to Treasury Board, Cabinet Committee Secretary) is made aware of any conflict issues that may arise in meetings of Cabinet, Cabinet Committees, or Treasury Board. Cabinet Operations and Treasury Board Staff will provide forms to Ministers and members of Cabinet Committees to ensure that they record their conflict, and their withdrawal from the meeting.

The Cabinet Secretary and the Secretary to Treasury Board are required to file monthly reports with the Conflict of Interest Commissioner that record conflicts of interest that have been identified by members of Cabinet, Cabinet Committees and Treasury Board, and the nature of the conflict. The conflicts identified are reported to the Commissioner only AFTER the matter on which the conflict was identified, becomes public. (NOTE: members must follow the same requirements in the Legislative Assembly in which case the Clerk of the Assembly must file the information with the Commissioner as soon as practicable).

Doubts or questions should be discussed with the Conflict of Interest Commissioner.

Gifts and Personal Benefits

Members are prohibited from accepting gifts or personal benefits in connection with the performance of their official duties. However, there is an exception for gifts or personal benefits received “as an incident of protocol or social obligations”. In most cases this means a token expression of appreciation or complimentary hospitality in the context of some official interaction.

Before accepting a gift, Members must consider whether the donor is someone whose interests could be affected by a decision the Member may be called upon to make, and whether accepting the gift would – or would appear – to place the Member under an obligation to the donor. Generally, if the donor has any official dealings with the government, the gift should not be accepted.

Members are required to disclose and provide details of any gifts or personal benefits they have received, if the value of the gift exceeds \$250 or if the combined value of multiple gifts from the same donor exceeds \$250 in a twelve month period. A summary of gifts received is included in the Member’s PDS.

The Office of the Conflict Commissioner has published a booklet *Accepting and Disclosing Gifts: A Guide for Members*. The Guide provides general information to assist Members to understand their obligations, but Members are still encouraged to seek the Commissioner’s advice if in any doubt about the propriety of accepting a gift or personal benefit. For further information *Accepting and Disclosing Gifts - A Guide for Members* is available at:

http://www.coibc.ca/down/coic_gifts_pub_final.pdf

For further information it is suggested that Members visit the website of the Office. It is kept up to date and contains decisions made by the Office over the years.

The Executive Co-ordinator for the Office is Linda Pink. Her coordinates are:

Office of the Conflict of Interest Commissioner
First Floor, 421 Menzies Street
Victoria, British Columbia V8V 1X4

Freedom of Information and Protection of Privacy Legislation

The Office of the Information and Privacy Commissioner (OIPC) provides independent oversight and enforcement of B.C.’s access and privacy laws, including:

The *Freedom of Information and Protection of Privacy Act* (FIPPA), which applies to over 2,900 public bodies, including ministries, local governments, schools, crown corporations, hospitals, municipal police forces, and more.

The Commissioner has the power to:

- Investigate, mediate and resolve appeals concerning access to information disputes, including issuing binding orders;
- Investigate and resolve privacy complaints;
- Initiate Commissioner-led investigations and audits of public bodies or organizations, if there are reasonable grounds of non-compliance or if it is in the public interest;
- Comment on the access and privacy implications of proposed legislation, programs or policies;
- Comment on the privacy implications of new technologies;
- Conduct research into anything affecting access and privacy rights;
- Educate the public about their access and privacy rights and the relevant laws.

Disclosure

FIPPA creates a broad-based obligation to disclose information that is in the possession of a ministry or a Minister's Office, upon request for disclosure. It is the duty of a ministry to respond to this request in a timely way. Normally the time limitation is 30 days. Ministries have staff whose duties include considering and coordinating responses to FOI requests. These staff should be consulted to assist with a response.

There are many exceptions to the requirement to disclose. Among the most important are:

- Any material that could reveal the substance of deliberations of Cabinet or any of its committees, including any advice, recommendations, policy considerations, or draft legislation or regulations submitted or prepared for submission to the Cabinet or any of its committees. If this kind of material is within the scope of the request, it must be provided by the ministry to the Cabinet Secretary for review and consideration;
- Personal information;
- Legal advice to a minister or ministry;
- Policy advice to a minister or ministry;
- Information harmful to law enforcement;
- Information harmful to intergovernmental negotiations; and
- Information harmful to government's economic interests, or the business interests of a third party.

Persons denied access to information can appeal the denial to the Information and Privacy Commissioner. While some of the exceptions noted above may appear to be broad, the Commissioner may give them a narrower interpretation. As noted above, ministry staff will be familiar with this and should be consulted in responses to any request.

Careful attention should also be paid to private or personal information about third parties. It is never appropriate to disclose such information without the consent of the third party.

Requests are very frequently made for access to Minister's calendars. These must be disclosed, after appropriate severing of information that might be "excepted" under one of the categories noted above. Consider carefully the amount of information contained in a calendar, on the assumption that such information might become accessible to the public.

Guidance on Use of personal Email accounts for Public Business

The Office of the Information and Privacy Commissioner also publishes guidance documents to inform citizens and promote compliance with B.C.'s access and privacy laws. For example the document *Guidance on Use of Personal Email accounts for Public Business* can be found at: <http://www.oipc.bc.ca/tools-guidance/guidance-documents.aspx>. This document explains the implications under FIPPA for use of personal email accounts for work purposes by employees of public bodies. It conveys two key messages. First FIPPA applies to the use of personal email accounts for work purposes. Second, public bodies should not, for FIPPA purposes allow the use of personal email accounts for work.

For further Information Contact the Information Privacy Commissioner at:

Elizabeth Denham
Office of the Information and Privacy Commissioner
Telephone: (250) 387-5629
E-mail: info@oipc.bc.ca
Website: <http://www.oipc.bc.ca/>

Lobbyists and Lobbying

Lobbying is a legitimate activity in a healthy and vibrant democracy. It is important that government be open and accessible for people to be able to put their views to the representatives making decisions that affect them. Different voices attempting to influence those decisions help to bring critical information to decision-makers. It is equally important that those who are paid for this activity and their activity be transparent.

The BC *Lobbyists Registration Act* provides for transparency by requiring lobbyists to register and to file information about who they intend to lobby, the subject matter and the expected outcome. The Act is administered and enforced by the Registrar of Lobbyists.

It applies to individuals who attempt to influence government decisions **for payment**, either as part of their paid job duties ("in-house lobbyists") or as consultants paid to represent their clients' interests ("consultant lobbyists"). The Act defines lobbying to include communicating with a **public office holder** to influence the development of legislation, regulations, policy and the awarding of contracts or conferral of benefits and can include arranging meetings. Cabinet ministers are considered public office holders under the Act.

The Registrar must make this information available, free, to members of the public and can be searched at <http://www.lobbyistsregistrar.bc.ca/>.

The onus is on lobbyists to comply with the Act. The Act specifies:

For greater certainty, nothing in this Act requires a public office holder to verify whether any person who is or may be lobbying the public office holder has acted in accordance with this Act (section 8(2)).

However, in her 2011/12 Annual Report, the Registrar notes that:

"Lobbying involves two central figures: a lobbyist and a public office holder. Because public office holders are half of this relationship, we turned some of our educational focus this year to helping them understand lobbying laws in BC. The LRA does not require public office holders to report when they have been lobbied, to request verification of registration from a lobbyist before engaging in a communication or to refuse to meet with unregistered lobbyists.

However, since public office holders might find themselves being interviewed as part of a compliance investigation concerning a lobbyist, their familiarity with the rules under the LRA is a central factor in compliance enforcement. Effective enforcement of lobbying laws depends on public office holders understanding when they are being lobbied and lobbyists' obligations in their role as lobbyists". (p. 7).

For more information go to the Office of Registrar for Lobbyists at:

Elizabeth Denham
Office of the Registrar of Lobbyists for British Columbia
PO Box 9038, Stn. Prov. Govt.
Victoria, BC V8W

Telephone: (250) 387-2686

<http://www.lobbyistsregistrar.bc.ca/>

Procurement

The Core Policy and Procedures Manual (CPPM) sets out government's rules for spending and procurement. The highest standards of conduct are essential to maintain and enhance the public's trust and confidence in the government's procurement processes. The following objectives for government procurement activity for goods, services and construction are based on the principles of fair and open public sector procurement: competition, demand aggregation, value for money, transparency and accountability.

1. Tendering of contracts need to be competed in a fair, open and transparent manner and ensure the best value for the dollars spent.
2. Compete services under \$25,000 to the extent it is reasonable and effective. There are provisions for the direct award of contracts, but only under very limited situations, which require documented justification of the decision.
3. Award services over \$25,000 using the competitive process.
4. Must not use any procurement process to acquire goods or services that are currently available through a Corporate Supply Arrangement.
5. Signed contracts need to be in place before work starts and need to describe the specific deliverables, time lines and payment terms. Contract work needs to be monitored by a government employee who is in the best position to certify whether goods and services were received.

Government has outlined Standards of Conduct for Public Service Employees engaged in government procurement process. To ensure fairness, employees must exercise the strictest confidentiality regarding information pertaining to procurement process. Examples include commercially useful information about government that is not publicly available, bids and proposals, plans to evaluate responses and results of evaluations. Employees who are in doubt as to whether certain information is confidential must ask the appropriate authority before disclosing it. Cautions and discretion in handling confidential information extends to disclosure made inside and outside of government and continues to apply after the employment relationship exists.

The CPPM can be found at:

http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/Summary_of_Chapters.htm

Judiciary/Matters before the Courts

Ministers must not comment publicly on matters that are before the Courts, or before administrative tribunals that are acting in a "judicial" capacity. Comments that are strictly regarding the facts of the matter may be appropriate. Before commenting, however, the Attorney General or Deputy Attorney General should be consulted.

Ministers should not communicate with:

- Members of the judiciary or administrative tribunals that are making judicial decisions concerning any matter that is before the court of tribunal;
- Crown prosecutors (without prior consultation with the Ministry of Justice); and
- Police officers or law enforcement agencies (without prior consultation with the Ministry of Justice) concerning matters under investigation (unless the Minister has been asked to assist).

Ministers should refrain from writing letters of character reference for persons involved in the proceedings.

Legal Advice and Legal Proceedings

The Attorney General is government's lawyer. Legal advice to Ministers and their ministries must be obtained from or through Ministry of Justice staff. The confidentiality of legal advice is protected by solicitor/client privilege, and should not be shared or discussed with any individual who is not an employee of the Province of British Columbia.

The Ministry of Justice represents government in litigation before courts and administrative tribunals. Lawyers who represent government in these proceedings must be employed or retained by the Ministry of Justice.

A Minister may be eligible for indemnity coverage under the Excluded Employees (Legal Proceedings) Indemnity Regulation if, as a result of the performance of his or her ministerial duties, legal proceedings are brought or likely to be brought against the Minister. Legal proceedings covered by the Regulation are civil proceedings (including defamation), professional body proceedings, human rights proceedings, penalty proceedings and criminal prosecutions. Where a Minister becomes aware that proceedings have been or are likely to be commenced, the Minister (in order to obtain coverage) must immediately notify the Deputy Minister to the Premier in writing of the proceedings and that he or she is likely to be seeking coverage, and, within a reasonable time thereafter, must make a written request for coverage in the form required by the Deputy Minister to the Premier. A Minister may also be eligible for coverage under the Regulation in connection with his or her ministerial duties if the Minister is to appear as a witness in proceedings or if the Minister wishes to bring proceedings against someone for defamation. For details about the coverage, the Regulation can be found at:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/62_2012

Members of Executive Council are disqualified from jury duty.