



Ministry of
Aboriginal Relations
and Reconciliation

Guide to FOI Process

Timelines, Roles and Responsibilities

Updated July 2017

Table of Contents

Introduction	3
Section 1: The MARR FOI Process and Timelines	4
1.1. FOI Process / Timeline.....	4
1.2. Proactive Disclosure Procedure for Direct Awards & Calendars	5
1.3. Consultation and Process	6
Section 2: Roles and Responsibilities	7
Section 3: FOI Legislation.....	8
3.1 Exceptions under FOIPPA.....	8
3.2. Introduction to FOI Legislation & Key Points.....	11
3.3. FOI related links and Glossary.....	12

Introduction

Freedom of Information Legislation (FOIPPA) provides the public with the right of access to all government records, with certain exceptions as outlined in the legislation. FOI plays a key role in assuring the accountability, transparency, and legitimacy of the provincial Government and its ministries, employees, and contractors.

The purpose of this guide is to provide:

- 1) MARR FOI process and timelines
- 2) Roles & Responsibilities
- 3) Links & useful FOI information

Section 1: The MARR FOI Process

Our goal is that with good communication and a clear process all FOI requests can be managed to meet the legislated 30 business day deadline is met.

1.1. Standard FOI Process

Step	Action
Step 1	Information Access Office (IAO) sends request to MARR via ABR FOI Inbox.
Step 2	The FOI Analyst directs the request to the Senior Leadership Team.
	<i>Note: At this time the request is for staff to provide details around volume and time it will take to collect the records, not the actual records.</i>
Step 3	The Senior Leadership Team works within their team to determine if there are records held by the team and responds as a team to the MARR FOI Inbox.
Step 4	FOI Analyst prepares Call for Records form and sends to IAO.
Step 5	IAO reviews the Call for Records form and determines if a fee is required or if the Ministry should proceed with collecting records.
	<i>Note:</i> • <i>If a fee is indicated, the request goes on hold while the applicant determines if they will pay to receive the records, or cancel their request.</i> • <i>If the process time is 5 hours or less, the FOI team will request records immediately.</i>
Step 6	FOI Analyst sends the request to gather records to teams who identified they have records.
Step 7	Teams receive request and coordinate responsive records as a team. The Senior Leader responsible for the team will review and confirm harms and that records are responsive. Once they are approved, the team will upload two versions of their records to the MARR FOI SharePoint site. 1) Clean copy of their records (for e.g. CLEAN CIEM Branch) 2) Marked copy of the records (for e.g. MARKED CIEM Branch) <i>Note: Marked copies of records should be completed using Adobe and the highlight and sticky note functions, including a justification on why the harm is being recommended.</i>
Step 8	FOI Analyst receives all records from staff via the SharePoint site and converts them into two complete packages. 1) Clean copy of the records 2) Marked copy of the records
Step 9	The FOI Analyst will review the records for consistency. Executive Coordinator reviews the records for: • Glaring issues from both a political lens and Ministry lens • Potential for any consults • 3rd Party Consults and Internal Consults

	Executive Coordinator creates cover page for MARR approval process, indicating issues, concerns, and outline of records/request.
Step 10	Executive Coordinator notifies Expanded Executive Member(s) (EEM) the records are ready for their review.
Step 11	EEM reviews the records and confirms/rejects harms indicated at staff level. EEM to work directly with staff if any major questions/concerns arise. Once approved, EEM will notify the ABR FOI Inbox.
Step 12	FOI Analyst prepares and sends records to IAO for redlining: • Clean Copy of Records • Unmarked copy of records
Step 13	IAO reviews records, coordinates any consults and redlines the records.
Step 14	IAO sends the redlined records back to the FOI Team.
Step 15	FOI Analyst reviews the incoming package (Including Sign-Off form), comparing the Ministry's recommendations to the redline version from IAO.
	<i>Note: when required, FOI Team will work with staff and IAO to determine why redactions were missed/added and determine if the redline package needs to be re-worked.</i>
	FINAL Approval Route
Step 16	FOI Analyst sends to the Assistant Deputy Minister, copying their support staff, requesting approval.
Step 17	Once approved, FOI Analyst s.13
Step 18	Once approved, FOI Analyst sends to the Associate DM/COO, copying their support staff, for review and approval
Step 19	Once approved, FOI Analyst sends to Minister's Office Chief of Staff for their review and approval.
Step 20	FOI Analyst returns approved package to IAO.

1.2. Proactive Disclosure Procedure for Direct Awards & Calendars

A proactive disclosure is an initiative that enables the release of certain information proactively so that the applicant no longer is required to submit a request through the formal FOI Process.

Under [Ministerial Directive 03-2016](#), monthly direct award summaries are due to the Open Information team no later than 15 calendar days from after the end of the month, with publication not later than 60 calendar days after the end of the month to which they relate.

Step	Action
Step 1	On the first day of every month, the Fin Open Gov't sends email request to MARR via the ABR FOI Inbox for Minister, Deputy and Associate Calendars.
Step 2	Executive Assistants are responsible submitting a pdf version of their Executives calendars to the FOI SharePoint site by the first Friday of every month. They must: • Complete a harms assessment • Obtain DMO Executive Director Approval on their executives calendar • Provide a clean and marked copy of their calendars
Step 3	FOI Analyst prepares and sends records to Fin Open Gov't for redlining:

	• Marked Copy of Records • Clean copy of records
Step 4	Fin Open Gov't reviews records and redlines the records
Step 5	Fin Open Gov't returns redlined package to the FOI team
	FINAL Approval Route
Step 10	FOI Analyst sends to s.13
Step 11	For Minister's Calendars, FOI Analyst sends to Minister's Office Chief of Staff who reviews and approves and sends back to FOI Analyst.
Step 12	FOI Analyst returns approved package to Fin Open Gov't .

Under [Ministerial Directive 02-2016](#), monthly calendars are due to the Open Information team no later than 10 calendar days from after the end of the month, with publication not later than 45 calendar days after the end of the month to which they relate.

Step	Action
Step 1	Within the first week of every month, CSNR sends a table of Direct Awards from the previous month to the ABR FOI Inbox.
Step 2	FOI Analyst reviews list and determines which ones require staff review (for e.g. is the information available on line and easily accessible). FOI Analyst sends out request on unclear lines to staff for review.
Step 3	Staff review and make recommended changes to Description and Contractor lines within the report, justifying changes for the approval process.
Step 4	FOI Analyst tracks changes and provides to s.1 and Associate DM for review and approval.
Step 5	Once approved, FOI Analyst sends back to CSNR for changes & submitting to Fin Open Gov't.
Step 6	Fin Open Gov't prepares final document and sends to the Ministry for approval via the ABR FOI Inbox.
Step 7	FOI Analyst reviews to ensure changes were captured. The sends for approval to MO as final approver.
Step 8	FOI Analyst returns approved back to Fin Open Gov't for posting.

1.3. Consultation and Process

In addition to a normal FOI request, the Ministry is frequently asked to consult with other public bodies on records that they are processing as an FOI. A consultation occurs when a request is made of a public body and that body has records which originated elsewhere. The main difference between a consultation and a MARR specific request is the timelines are shorter for approval and we are not being asked to supply records. **Failure to respond quickly to a consultation may mean that the ministry's advice regarding harm is not included with the severing.**

Step	Action
Step 1	FOI Analyst receives request and identifies Expanded Executive Member (EEM) responsible and sends for their review and approval.
Step 2	EEM works with their subject matter experts, and notifies the FOI Inbox that the records are

	approved and makes any recommendations for IAO.
Step 3	Executive Coordinator reviews recommendations from MARR staff and outlines them for executive approval by preparing an FOI final package cover sheet.
	OR
	If no recommendations from MARR staff, Executive Coordinator prepares FOI final package cover sheet based on other Ministry findings.
Step 4	FOI Analyst prepares final package for approval through executive.
	FINAL Approval Route
Step 5	FOI analyst sends to ADM responsible for program area for review and approval with a copy to their Divisional Coordinator
Step 6	Once approved, FOI Analyst sends to Associate DM/Chief Operating Officer OR Deputy Minister (file dependent) and s.13 for review and approval.
Step 8	Once approved, FOI Analyst sends to Minister's Office Chief of Staff who reviews and approves and sends back to FOI Analyst.
Step 9	FOI Analyst returns approved package to IAO.

Section 2: Roles and Responsibilities

Within MARR each staff person has accountability when it comes to FOI. Some positions are more accountable and in the below table you will see where and how you fit into the MARR FOI picture.

MARR	Roles and Responsibilities
All Staff	- Conduct the search for records and identify length of time to retrieve documents for fee estimates - Identify Harms on own records - Upload 2 versions of PDF Records to SharePoint: one marked copy(with suggested harms) and one clean copy
FOI Analyst	- Assigns/tracks/combines records/fee estimates to IAO - Reviews all packages - Forwards request to staff for record gathering and harms assessment completion - Forwards final sign-off package through executive for final approval review and signature - Tracks deadlines and reports to EC on potential issues - Identifies potential issues from a timing and research perspective - Liaises with Executive Coordinator - Primary point of contact for IAO
Executive Coordinator	- Reviews all packages for emerging issues - Consults with staff when necessary - Creates FOI Final Package Cover Sheet - Reports to executive on issues arising with FOI - Reviews all consultations

Senior Leadership Team Member	- Coordinating team responses and identifies lead per request - Approving teams records and ensuring records are responsive and harms are appropriate - Ensuring teams are managing timelines - Flags any issues for the FOI team
Expanded Executive Member	- Accountable for reviewing and approving recommended harms from their branch before going to IAO - Works with Executive Coordinator on redlines and consultations when required
GCPE Communication Director/Manager	- Reviews all FOI requests for possible sensitivities to the Ministry - Drafts issues notes as required - Liaise with Minister's Office Chief of Staff for final approvals
ADM	- Approves all Program Area Specific FOI's
Deputy Minister & Associate Deputy Minister/COO	- Reviews and signs-off on the final package dependent on file and ADM recommendations
Minister's Office	- Final package sign-off

Section 3: FOI Legislation

3.1 Exceptions under FOIPPA

In terms of limiting the content of disseminated records, the Act provides 11 sections that ensure personal privacy, corporate confidentiality, and discussions regarding policy remain confidential. It is IAO's responsibility to ensure sections of the act is applied appropriately. MARR staff is responsible for identifying areas of concern within their records and provide a justification as to why they are sensitive. The following sections are intended to limit dissemination of harmful information:

Section	High Level Definition	Things to consider
s. 12. – Cabinet and Local Public Body Confidences	Is intended to prevent harm to the government that is presumed to occur if the substance of deliberations is revealed before or too soon after the issues were considered or before the issues are ready for public review. Premature disclosure of Cabinet deliberations inhibits the ability of Cabinet members to debate issues openly and freely, thereby reducing the effectiveness of Cabinet's decision making role.	Do the records contain information that was submitted or prepared for submission to Cabinet or any Cabinet Committee or Treasury Board? If yes, when (or when did it go) is it scheduled to go before Cabinet or TB? Has it been made public? Is it draft or final submission? Do the records contain information that is policy advice prepared for a public body or minister?

s.13 – Policy Advice or Recommendations	Serves to protect the open and frank discussion of policy issues within the Public Service and may be applied to information that was developed by or for a Ministry or Minister	Are any of the records created by or for, or in the custody or control of, an officer of the Legislature and that relate to the exercise of that officer's functions under an Act?
s.14 – Legal Advice Section 14	Prevents the disclosure of records that contain communications between a legal advisor and their client. The right to lawyer/client confidentiality may only be waived by the client.	Do any of the records relate to a prosecution that has not been completed? Do the records contain information that is subject to solicitor client privilege and or used in litigation? If yes, do you recommend consultation with the Ministry of Justice
s.15 – Disclosure Harmful to Law Enforcement	Prevents the dissemination of records that could reasonably be expected to harm law enforcement. This section is not applicable to routine inspection reports, statistical prosecution information, or reports on the effectiveness of a law enforcement program	Are any of the records going to jeopardize law enforcement and their integrity?
s.16 – Disclosure Harmful to Intergovernmental Relations or Negotiations	Gives the head of the public body the right to refuse to disclose information that could reasonably be expected to harm intergovernmental negotiations.	Do the records contain information that could harm BC's relationship with the Canadian government, another province, municipality, or regional district, an aboriginal government or international state or states? If yes, are the records authored by that other party?
s.17 – Disclosure Harmful to the Financial or Economic Interests of a Public Body	Public bodies hold significant amounts of sensitive financial and economic data that are critical to operations, negotiations, and management of the provincial economy. This section ensures such information is not revealed. This section, however, does not apply to the results of product or environmental testing carried out by or for the public body unless carried out as a fee for service or for the purpose of developing methods of testing.	Do the records contain information that could harm the financial or economic interests of the BC government?
s.18 – Disclosure Harmful to the	Is intended to prevent damage to conservation of fossil sites, natural sites,	Do the records contain information that could harm

Conservation of Heritage Sites	valuable anthropological or heritage sites, or endangered, rare, threatened, or vulnerable living resources.	heritage sites, endangered or vulnerable species or other resources?
s.19 – Disclosure Harmful to Individual or Public Safety	Gives a public body the discretion to withhold information if its release could threaten another person’s safety, mental or physical health, or interfere with public safety. This exception can apply to an individual’s own records.	Do the records contain information that could harm a law enforcement matter or the security of a system/property/individual? Do the records contain information that could threaten anyone else’s safety or mental or physical health, or interfere with public safety?
s.20 – Information that will be Published or Released within 60 Days	Applies to information that will be publicly available within 60 days of the date of the request or for information which is available for purchase.	Are the records going to be published or released to the public in the next 60 days? If yes, what is the date of publication? Are any of the records available for purchase? If yes, where are these records available? Are any of the records manuals, instructions or guidelines issued to the officers or employees of the public body, or substantive rules or policy statements adopted by the public body? If yes, where are these records available?
s.21 – Disclosure Harmful to Business Interests of a Third Party	Ministries conduct business with a variety of contractors and service providers. Release of such information may harm the business interests of those parties. This section is meant to prevent the release of information that could reveal trade secrets or the commercial, financial, labour relations, scientific or technical information of a third party. This section involves a three-part test (1) reveal trade secrets, or commercial/financial/labour relations/scientific/technical information of or about a third party; (2) supplied implicitly	Do the records contain information that could harm BC’s relationship with the Canadian government, another province, municipality, or regional district, an aboriginal government or international state or states? If yes, are the records authored by that other party? Do the records contain information that could harm the

	or explicitly in confidence; and (3) disclosure could reasonably be expected to harm the competitive position or interfere with negotiating position of the third party.	business interests of a third party? If yes, do you recommend consultation with that third party? Do the records contain information that if released would be an unreasonable invasion of a third party's personal privacy?
s.22 – Disclosure Harmful to Personal Privacy	Protects the personal privacy of individuals whose personal information resides with a public body. Section 22 requires the ministry refuse to disclose information that constitutes an unreasonable invasion of a third party's personal privacy.	Do the records contain information that if released would be an unreasonable invasion of a third party's personal privacy?

3.2. Introduction to FOI Legislation & Key Points

The purposes of the [Freedom of Information and Protection of Privacy Act \(FOIPPA\)](#) is to make public bodies more accountable to the public and to protect personal privacy by:

- giving the public a right of access to records;
- giving individuals a right of access to, and a right to request correction of personal information about themselves;
- specifying limited exceptions to the rights of access;
- preventing the unauthorized collection, use or disclosure of personal information by public bodies; and
- providing for an independent review of decisions made under this Act.

FOI legislation mandates that records be released within 30 business days of an FOI request being received. While extensions can be made, (based on volume of records, consultations etc.) the bulk of requests are processed within the 30 day timeframe. The 30 day countdown begins as soon as a request is made to a ministry. If a request is made at 11:59 pm on June 4th then June 4th is considered day 1 of 30. A request is submitted to the ministry via IAO to the FOI Team at ABRFOI@gov.bc.ca .

It is important for ministry employees to be cognizant of this mandated timeframe. The clock starts the moment a request is received – whether it was received by the ministry and redirected to IAO for processing or whether it was received by the FOI Office.

3.3. FOI related links and Glossary

1. MARR FOI SharePoint: s.15
2. MARR FOI Team Email: ABRFOI@gov.bc.ca
3. Information Access Operations homepage: <http://www.gov.bc.ca/citz/iao/>
4. A copy of the FOI Act: http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00
5. FOIPP Policy and Procedures Manual: http://www.cio.gov.bc.ca/cio/priv_leg/manual/index.page
6. IAO Records Management: http://www.gov.bc.ca/citz/iao/records_mgmt/index.html
7. Open Information: <http://www.openinfo.gov.bc.ca/ibc/index.page?>
8. Office of the Information & Privacy Commissioner:: <http://www.oipc.bc.ca/>

Term	Definition
Applicant	Any person, business, or entity that submits an FOI request. The identity of the applicant is protected by FOIPPA legislation, and cannot be released to the ministry.
Call for Records (CFR)	The initial notification to the Ministry that an FOI request has been made. The Call for Records includes the request, due dates, and other pertinent information.
Consultation	The process by which a Ministry seeks advice on records in its holdings that originated with another public body.
Custody or Control	Custody or Control refers to the legal ownership of records.
Fee Estimate	An estimate of the cost of the FOI request that is borne by the applicant.
Harms	The mechanism by which any potentially sensitive record that may negatively impact the Ministry can be brought to the attention of IAO.
Head of Public Body	In relation to a public body means, (1) if the public body is a ministry or office of the government of British Columbia, the member of the Executive Council who presides over it, (2) if the public body is designated in, or added by regulation to, Schedule 2, the person designated as the head of that public body in that Schedule or by regulation, and (3) in any other case, the person or group of persons designated under section 77 as the head of the public body.
Local Public Body	Means a local government body, a health care body, a social services body, an educational body, or governing body of a professional occupation if the governing body is designated in Schedule 3.
Local Government Body	Means a (1) municipality, (2) regional district, (3) an improvement district as defined in the Local Government Act, (4) a local area as defined in the Local Services Act, (5) a greater board as defined in the Community Charter or any incorporated board that provides similar services and is incorporated by letters of patent, (6) a board of variance established under section 899 of the Local Government Act or section 572 of the Vancouver Charter, (7) the trust council, the executive committee, a local trust committee and the trust fund board as defined by Islands Trust Act, (8) the Okanagan Water Basin Board, (9) a water users' committee as defined by the Water Act, (10) the Okanagan-Kootenay Sterile Insect Release Board, (11) municipal police board established under section 23 of the Police Act, (12) a library board as defined in the Library Act,

	(13) any board, committee, commission, panel, agency or corporation that is created or owned by a body referred to in sections (1) to (12) and all the members or officers of which are appointed or chosen by or under the authority of that body, (14) a board of trustees established under section 37 of the Cremation, Interment and Funeral Services Act, (15) the South Coast British Columbia Transportation Authority, and (16) the Park Board referred to in section 485 of the Vancouver Charter
On-Hold	Refers to stopping the countdown of legislated days before the records are due to the applicant.
Personal Information	Means recorded information about an identifiable individual other than contact information.
Public Body	Means either a ministry of the government of British Columbia, an agency, board, commission, corporation, office or other designated in, or added by regulation to Schedule 2, or a local public body. Not applicable, however, is the office of a person who is a member or officer of the legislative assembly, or the Court of Appeal, Supreme Court, or Provincial Court.
Record	Includes books, documents, maps, drawings, photographs, letters, vouchers, papers, and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or other mechanism that produces records.
Schedule 2	Is <u>a list</u> of institutions and/or entities that are subject to FOIPPA legislation?
Schedule 3	Is <u>a list</u> of governing bodies of professional organizations or occupations subject to FOIPPA legislation?
Service Provider	Means a person retained under a contract to perform services for a public body. A service provider's records are subject to FOI.
Sign-Off	Is the process by which the ministry approves the release of records to the applicant?
Third Party	In relation to a request for access to a record or for correction of personal information, means any person, group, or organization other than the person who made the request or a public body.
Transitory	Transitory records are records of temporary usefulness that are not an integral part of an administrative or operational record series, that are not regularly filed with standard records or filing systems, and that are only required for a limited period of time for the completion of a routine action or the preparation of an ongoing record. Transitory records are not required to meet statutory obligations or to sustain administrative or operational functions. Originals or copies required for statutory, legal, fiscal, administrative or operational purposes will be retained in a regular filing system and disposed of separately in accord with the Document Disposal Act. This schedule covers the following types of transitory records.