

**Freedom of Information**



Ministry of  
Transportation  
and Infrastructure


## Introduction to Your MTI FOI Team



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(Marion)



BRITISH  
COLUMBIA

Ministry of  
Transportation  
and Infrastructure



## FOI Request Starting Point

### Information Access Operations (IAO)

Ministry of Finance  
PO Box 9569  
Stn Prov Govt  
Victoria BC V8W 9K1

Telephone: 250-387-1321  
Fax: 250-387-9843  
Email: [FOI.Requests@gov.bc.ca](mailto:FOI.Requests@gov.bc.ca)

[IAO Website](#)

(Rachelle)

- IAO is liaison between Applicant to our Ministry
- If you get a request for records and are not sure if it needs to go through FOI – contact us to discuss
- Not all requests for records need to go through the Freedom of Information process



## FOIPPA Legislated – Timeline

### 30 Business Days

The 30 day countdown begins as soon as a request is made of a ministry. Once an FOI request is received by any government office, the clock starts ticking.



(Rachelle)

- 30 business days
- Bottom line is – we need your help so we can avoid going overdue on FOI requests

## Managing Freedom of Information

### Open Information / Open Government


- The goal of this initiative is to enhance the current FOI process by making requested records available to the broader public.

(Rachelle)



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# MoTI FOI Process



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### Overview: MoTI FOI Process At a Glance

<b>STEP 1</b> <b>New Request /  Tran for Fee  Estimate</b>	<ul style="list-style-type: none"> <li>❑ IAO sends New FOI Request to MII FOI</li> <li>❑ MII FOI forwards request to appropriate Department / Region and provides a fee estimate due date and a records due date</li> <li>❑ Department / Region advises MII FOI if they hold responsive records and provide an estimate of time to search and approximate number of pages</li> </ul>
<b>STEP 2</b> <b>Fee Estimate  with IAO</b>	<p><b>NOTE:</b> If there is no fee (i.e. 3 hours or less to search), go to STEP 3 and provide responsive records by records due date provided in the new FOI request</p> <ul style="list-style-type: none"> <li>❑ MII FOI sends fee estimate to IAO</li> <li>❑ IAO sends fee estimate to applicant and puts the request ON HOLD until the fee deposit is paid or applicant applies for fee waiver, narrows request, or abandons request</li> </ul>
<b>STEP 3</b> <b>Gather Records &amp;  Provide Harms</b>	<ul style="list-style-type: none"> <li>❑ IAO advises MII FOI that applicant has paid the fee deposit</li> <li>❑ MII FOI advises Department / Region that fee deposit paid and to proceed with gathering records and providing a harms assessment – a new records due date is provided</li> <li>❑ Department / Region sends responsive records and harms to MII FOI</li> </ul>
<b>STEP 4</b> <b>IAO Harms  Review</b>	<ul style="list-style-type: none"> <li>❑ MII FOI reviews records and sends them (with ministry harms assessment) to IAO</li> <li>❑ IAO applies severing and provides recommendations regarding FOIPPA and returns the redlined records and approval form to MII FOI</li> <li>❑ MII FOI reviews the redlined records</li> </ul>
<b>STEP 5</b> <b>Final Review &amp;  Sign Off</b>	<ul style="list-style-type: none"> <li>❑ MII FOI sends the redlined records and approval form to the Department / Region (and DM for sensitive issues) for final review and sign off</li> <li>❑ The Department / Region (and DM approval for sensitive issues) reviews redlined records and signs approval form and returns form to MII FOI</li> <li>❑ MII FOI sends signed approval form to IAO – IAO forwards final records package to applicant</li> </ul>

(Rachelle) This overview pdf can be found online/printed after the meeting on our TRANnet Intranet on the Resources Tab



## Overview: MDO FOI Process At a Glance

### STEP 1 New Request / Tran for Fee Estimate

- IAO sends New FOI Request to MII FOI
- MI FOI forwards request to appropriate Department MDO and provides a fee estimate due date and a records due date - MDO forwards request to Program Area
- Department MDO advises MII FOI if their Department holds responsive records and provides an estimate of time to search and approximate number of pages

### STEP 2 Fee Estimate with IAO

- NOTE: If there is no fee (i.e. 3 hours or less to search), go to STEP 3 and have Program Area provide responsive records by records due date provided in the new FOI request
- MI FOI sends fee estimate to IAO
  - IAO sends fee estimate to applicant and puts the request ON HOLD until the fee deposit is paid, or applicant applies for fee waiver, narrows request, or abandons request

### STEP 3 PA Gathers Records & Provides Harms

- IAO advises MII FOI that applicant has paid the fee deposit
- MI FOI advises Department MDO that fee deposit paid and MDO advises PA(s) to gather records and provide harms assessment - new records due date is provided
- Program Area(s) gather the responsive records and sends to their Department MDO
- Department MDO sends responsive records and harms to MII FOI by records due date

### STEP 4 IAO Harms Review

- MI FOI reviews records and sends them (with ministry harms assessment) to IAO
- IAO applies screening and provides recommendations regarding FOIPPA and returns the redlined records and approval form to MII FOI
- MI FOI reviews the redlined records

### STEP 5 Final Review & Sign Off

- MI FOI sends the redlined records and approval form to the Delegated Department Head (and DM for potentially sensitive topics) for final review and sign off
- Once signed (DM or Department MDO (pending topic) sends to MII FOI
- MI FOI sends signed approval form to IAO - IAO forwards final records package to applicant

(Rachelle)



**STEP 1**

**New Request /  
Tran for Fee Estimate**

- IAO sends New FOI Request to MTI FOI
- MTI FOI forwards request to appropriate Department MDO and provides a fee estimate due date and a records due date
- MDO forwards request to Program Area
- Department MDO advises MTI FOI if their Department holds responsive records and provides an estimate of time to search and approximate number of pages

(Rachelle)

The fee estimate is your best guess for time and number of pages

- Ask yourself, ***do you understand what the applicant is asking for?***  
If it isn't clear, ask us. If necessary we can seek further clarification with the applicant.
- This is the **best time for the applicant to potentially narrow the wording or date range of their request** in order to reduce or eliminate the fee but still get the records they are looking for.



## Fee Estimate

- Will you have responsive records? Y/N \_\_\_\_\_
- If yes? How much search time in hours? (best guess\*\*) \_\_\_\_\_  
**\*\* Note:** if more than 3 hours, please provide rationale
- Approximate number of pages? (5, 50, 500) \_\_\_\_\_
- Are you aware of any other program areas or other public bodies that should be advised of this FOI? If yes, please provide \_\_\_\_\_

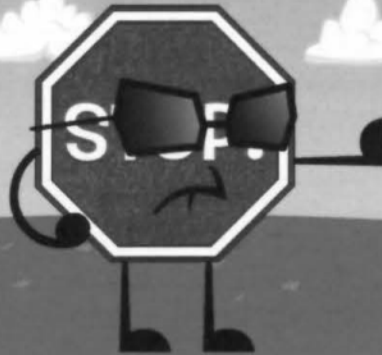
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(Rachelle)

- Highlight the last bullet – if you feel other program areas might also have records please let your FOI Coordinator know who in turn let MTI FOI know.
- Please don't forward the request directly to them as we track and follow up with who receives the request.

## STEP 2

### Fee Estimate with IAO



Stop! The request goes ON HOLD once MTI FOI submits a Fee Estimate to IAO ... DO NOT Gather Records until ...

MTI FOI advises when the applicant has paid the fee deposit and provides a new due date for records (with harms assessment)

(Rachelle)

**STEP 2** **Fee Estimate with IAO**

**NOTE:** Only if there is no fee (i.e. 3 hours or less to search), go to STEP 3 and provide responsive records by records due date provided in the new FOI request. Otherwise STOP

- MTI FOI sends fee estimate to IAO
- IAO sends fee estimate to applicant and puts the request ON HOLD until the fee deposit is paid or applicant applies for fee waiver, narrows request, or abandons request

(Rachelle)

- If fee estimate applies, don't gather the records yet! Let your department FOI coordinator know and wait for confirmation that the applicant paid the fee.
- Be clear about your search efforts – where to search (e.g. files, emails, databases, off-site records)
- ONLY provide those records that respond to the applicants' FOI request (scope of a request). Records must not be altered
- Avoid providing duplicates – they can affect our ability to process the request in a timely manner and it can impact the consistency of severing considerations, if any
- Ministry must respond to all aspects of a request – must provide records for each item identified in the wording of a request


- Need to include drafts and other transitory records – if you kept it – you must provide it.

## STEP 3

### Program Area Gathers Records & Provides Harms

- IAO advises MTI FOI that applicant has paid the fee deposit
- MTI FOI advises Department MDO that fee deposit paid and MDO advises PA(s) to gather records and provide harms assessment – new records due date is provided
- Program Area(s) gather the responsive records and sends to their Department MDO
- Department MDO sends responsive records and harms to MTI FOI by records due date

(Marion)



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### Ministry Harms Assessments

- Highlight or **red box** harmful items in marked copy
- Add a comment in the pdf or summarize in an email; providing specific information for harms (i.e how this could harm government if released?)
- Cabinet Confidence (S.12) Required Info to apply –
  - Before Cabinet as ongoing issue? Or is a submission being prepared?
  - Approx. date for Cabinet
  - Decision been made?
  - Decision Public?

Legal Advice

(Marion)

- do not include the specific FOIPPA section #'s)
- Ministry staff reviews records and identify 'Harms' that could result from disclosure, i.e., disclosure of the records could significantly harm the ministry's position, or a third party's interest on a given topic
- Ensure harms are clearly identified and communicated to your ministry FOI contacts

July 11, 2016	
Monday	
8:00 AM - 11:00 AM	DO NOT BOOK / OUT OF OFFICE
11:00 AM - 12:00 PM	s.22
12:00 PM - 1:00 PM	LUNCH
1:00 PM - 1:30 PM	DO NOT BOOK / OUT OF OFFICE
1:00 PM - 1:30 PM	MTS BRIEFING: Stop of Interest Website -- s.15 (Ryan will dial-in)
1:30 PM - 3:00 PM	MTS BRIEFING: s.13 - s.15 (Dial-in) s.15.s.17 , Participant ID: s.15.s , MTS-Moderator ID: s.15.s Policy Advice for Minister
3:00 PM - 3:30 PM	MTS MEETING: w MMM & Earl Cameron, SGI Auto Fund -- s.15
3:30 PM - 4:30 PM	MTS Briefing: Resource Roads, Annacis Island, West Kelowna (Kevin) -- s.15 s.15
July 12, 2016	
Tuesday	
All Day	Orangemen's Day (Newfoundland and Labrador) -- Canada

Marion



## STEP 4

## IAO Harms Review

- ❑ MTI FOI reviews records and sends them (with ministry harms assessment) to IAO
- ❑ IAO applies severing and provides recommendations regarding FOIPPA and returns the redlined records and approval form to MTI FOI
- ❑ MTI FOI reviews the redlined records

(Marion)

**STEP 5**

**Final Review & Sign Off**

- ❑ MTI FOI sends the redlined records and approval form to the Delegated Department Head (and DM for potentially sensitive topics) for final review and sign off
- ❑ Once signed DMO or Department MDO (pending topic) sends to MTI FOI
- ❑ MTI FOI sends signed approval form to IAO - IAO forwards final records package to applicant

(Marion)

- Ministry staff to manage their internal review and sign off process
- If amendments to the release package are identified, contact your FOI coordinator immediately to make any necessary changes – do not delay
- Managing any issues associated with the disclosure of records involved including GCPE and notifying your supervisor of concerns
- Remember – we need your help in meeting the legislated timeline!
  - Ensure there is a specific delegate to sign off available at all times – if you aren't available who is?
- Most of the FOI requests are posted on the **Open Information** web site, unless the records are deemed to be exempt from publication as set out in our publication

policy

- **Our Goal is to Close the file on time and with defendable FOIPPA application**



## Redlined Record

**s.12 – Cabinet and Local Public Body Confidences (mandatory) 15 year time limit** s.12

This section 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. Needs to go to OOP for application and we must answer (1) before cabinet as ongoing issue? Or is submission being prepared? Provide dates if known (2) Decision made? (3) Decision public?

**s.13 – Policy Advice or Recommendations 10 year time limit**

Section 13 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.

**s.14 – Legal Advice** s.14

This section prevents the disclosure of records that contain communications between a legal advisor and his/her client. The right to lawyer/client confidentiality may only be waived by the client.

**s.15 – Disclosure Harmful to Law Enforcement**

Section 15 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.

(Marion)

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Withheld pursuant to/removed as

s.13

## FOI Consultation Requests

MoTI regularly receives requests for consultations on FOI requests with other public bodies (i.e. other Ministries, Transport Canada, etc.)

- Consultations do not follow the typical FOI process
  - do not gather records
- 10 days turnaround time for consultations
- MoTI only provides a harms assessment, noting any concerns with the release information our ministry has authored

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(Rachelle)

- Important to provide our harms assessment by the due date so that MoTI's severing recommendations are included
- With consultation, often, not all of the records were generated by MoTI - included to provide context and assist in our consultation
- If you feel another Department should also receive the consultation request – don't forward, let us know and we will forward the request – please communicate this to your PA's as well (we track it and follow up)



**Thanks!**

**Additional Questions?**

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- IAO advises MTI FOI that applicant has paid the fee deposit
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### Fee Estimate with IAO

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  - IAO sends fee estimate to applicant and puts the request ON HOLD until the fee deposit is paid or applicant applies for fee waiver, narrows request, or abandons request

## STEP 3

### PA Gathers Records & Provides Harms

- IAO advises MTI FOI that applicant has paid the fee deposit
- MTI FOI advises Department MDO that fee deposit paid and MDO advises PA(s) to gather records and provide harms assessment – new records due date is provided
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## STEP 4

### IAO Harms Review

- MTI FOI reviews records and sends them (with ministry harms assessment) to IAO
- IAO applies severing and provides recommendations regarding FOIPPA and returns the redlined records and approval form to MTI FOI
- MTI FOI reviews the redlined records

## STEP 5

### Final Review & Sign Off

- MTI FOI sends the redlined records and approval form to the Delegated Department Head (and DM for potentially sensitive topics) for final review and sign off
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# Freedom of Information Requests

## MoTI Harms Assessment Information Sheet

### What is a “Harms Assessment”?

When a department/program area gathers records related to an FOI request, the subject matter ‘experts’, must review them to identify specific portions of the records that could potentially cause harm to government or personal privacy. ‘Harms’ are done by highlighting portions of the records or summarizing concerns in order to provide context and commentary around items that should not be released. We understand that providing harms recommendations is not always a straight forward task so please reach out to [MTI FOI](#) for advice.

### What is an exception?

Under FOIPPA legislation, there are specific exceptions to the disclosure of information that can be applied. See page 2 for specific FOIPPA exceptions/harms. It is the Ministry’s goal is to be as open and transparent as possible with the release of information.

### Who applies the severing once the harms are identified?

The Information Access Office (IAO) at the Ministry of Finance does a line by line review and applies severing in the records based on the ministry’s harms assessment. This is why it’s important that program areas, as the subject matter experts, provide the background/context for harms so the IAO is able to apply proper severing before returning the ‘redlined’ records (*proposed severing has been identified*) package to the ministry for final review and sign off.

### Clearly Identify Specific Harms:

When reviewing records for harms, clearly identify specific portions/paragraphs within the records, either by highlighting sections or summarizing in an email the harms concerns (based on exceptions - see page 2). **IMPORTANT:** If you highlight harms directly in the records, ensure you save a second ‘clean copy’ of the records and provide both the marked copy and clean copy to your FOI Coordinator.

- If you have a feeling that something may be sensitive/harmful if released but you’re unsure which exception/harm would apply, highlight the information and speak to MTI FOI for advice.
- Are your harms recommendations clear (what/why)? Providing background/contextual information is helpful. If it isn’t clear for you, it won’t be for the analyst applying the severing.

Keep in mind when the Ministry’s final approver is signing off on the FOI request, they generally review the ‘redlined’ records line by line. If they have to identify/apply missed harms at the sign off stage it can delay the process considerably and increases the chance of the file going overdue (past the legislated due date).

### Tips and Tricks:

- Cabinet confidential harms can be noted something like “Refers to (*topic*). The Ministry advises this item will be going to Cabinet on (*date*). Reveals substance of upcoming deliberations.”
- If you have saved draft versions of records at the time of the FOI request, they are responsive and must be included.
- For Personal Privacy harms, not every instance of a person’s name/contact info, etc. needs to be highlighted in the records. Highlight one instance of the information in the records and add a note stating something like; “all instances/personal information related to (name) may be personal” – the IAO analyst can keyword search for severing personal information.
- It’s important to note that the majority of records in FOI requests are posted publicly on Open Information.

## "Harms" – Exceptions to the Release/Disclosure of Information under FOIPPA

### **Cabinet and Local Public Body Confidences**

It is mandatory that the Ministry prevent harm to government that could occur if the substance of Cabinet deliberations is revealed before or too soon after the issues are 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.

For this harm to be applied, it is essential to provide the **status of the issue going to Cabinet**.

The following questions must be answered and provided in full:

- 1) Is information before cabinet as ongoing issue? Or is submission being prepared? (provide dates if known)
- 2) Has a Decision been made?
- 3) Is the Decision public?

### **Policy Advice or Recommendations**

This harm is at the discretion of the Ministry in order to protect open and frank discussion regarding policy issues within the Public Service and may be applied to information that was developed by or for a Ministry or Minister. (i.e. the recommendations and options in Briefing Notes are typically withheld, however, the background information in a BN is considered factual and would be released)

### **Legal Advice**

Protects 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.

### **Disclosure Harmful to Law Enforcement**

Prevents the release of records that could reasonably be expected to harm law enforcement. (i.e. license plate #'s, VIN's, if there is an ongoing police investigation)

Note: This harm is not applicable to routine inspection reports, statistical prosecution information, or reports on the effectiveness of a law enforcement program.

### **Disclosure Harmful to the Financial or Economic Interests of a Public Body**

Prevents the release of sensitive financial and economic data held by a public body that are critical to operations, negotiations, and management of the provincial economy.

Note: If this is public money that has already been paid, in the interest of an open and transparent government, it is unlikely this exception would apply.

### **Disclosure Harmful to the Conservation of Heritage Sites**

Intended to prevent damage to conservation or fossil sites, natural sites, valuable anthropological or heritage sites, or endangered, rare, threatened, or vulnerable living resources.

### **Disclosure Harmful to Individual or Public Safety**

Prevents the release of information that 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.

### **Information that will be Published or Released within 60 Days**

The information will be made publicly available within 60 days of the date of the FOI request or for information which is available for purchase.

Note: Rather than being speculative, an exact date of release and link to information needs to be provided.

### **Information is Publicly Available for a Fee**

The information is publicly available for a fee (i.e. Land Title documents)

### **Disclosure Harmful to Business Interests of a Third Party**

It is mandatory that the Ministry prevents the release of information that may harm the business interests of contractors and service providers (third parties) that the Ministry conducts business with. This harm 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 harm can be difficult to apply/defend as the answer to all 3 of the following questions must be 'yes':

- 1) Does the information reveal trade secrets, or commercial/financial/technical information of or about a third party?
- 2) Was the information supplied implicitly or explicitly in confidence
- 3) Could disclosure of the information reasonably be expected to harm the competitive position or interfere with negotiating position of the third party?

### **Disclosure Harmful to Personal Privacy**

It is mandatory that government ensures the protection of personal privacy of individuals whose personal information resides with a public body. It is mandatory for the Ministry to refuse to disclose information that constitutes an unreasonable invasion of a third party's personal privacy. Note: Releasing names of individuals that are conducting business with government is not a personal privacy harm.