



“FOIP News” is an electronic newsletter produced by the Access and Privacy Branch, Alberta Government Services, to highlight news relating to Alberta’s *Freedom of Information and Protection of Privacy (FOIP) Act*. FOIP News is issued as needed. Web site links are provided to allow you to easily obtain more information on a news item.

Guide to Managing Contracts Under the FOIP Act - discussion draft

The Access and Privacy Branch of Alberta Government Services has revised its guide to contract management. A discussion draft is now available on the FOIP web site. The new *Managing Contracts under the FOIP Act* has been updated and expanded to cover government contracting more comprehensively, including agreements relating to shared services, common or integrated programs, and collaborative arrangements between government and the private sector.

Although the guide has been designed to meet the needs of provincial government employees, many of the suggestions offered in the guide are likely to be applicable to local public bodies subject to the FOIP Act.

The new guide includes:

- Outlines of the different types of agreements that public bodies may enter into, including purchase agreements, fee-for-service contracts, and agreements relating to common or integrated programs,
- An overview of access to information and privacy legislation in Alberta and other jurisdictions that may affect an agreement between a public body subject to the FOIP Act and a body that is subject to other legislation,
- Issues that may arise in relation to different kinds of agreements, such as the processing or storage of personal information outside Alberta, the processing of sensitive personal information, the use of client information by contractors after the end of the contract, and the restructuring of a contractor organization during the life of a contract,
- Business processes that may require consideration of access, privacy and records management issues at the pre-contracting stage of a project. This chapter also discusses records management and access and privacy issues relating to the tendering process. It offers model provisions for inclusion in tendering documents, such as requests for proposals,
- Discussion of contract preparation and various suggested model clauses for inclusion in a contract.

To view the guide, go to

http://www.gov.ab.ca/foip/other_resources/publications_videos/pdf/contract_managers_guide.pdf.

Annual Report 2004-2005

The 2004-2005 Annual Report on the *Freedom of Information and Protection of Privacy Act* was tabled in the Legislative Assembly of Alberta on November 23, 2005. A copy is available on the FOIP web site at http://www.gov.ab.ca/foip/annual_reports/index.cfm.

OIPC Orders, Investigation Reports and Decisions

Since the last newsletter (June 2005), the following Orders, Investigation Reports and Decisions, relating to local public bodies, have been released by the OIPC:

F2004-012 Southern Alberta Institute of Technology (released July 12, 2005)

The SAIT Academic Faculty Association made a request under the FOIP Act for minutes of closed meetings of SAIT's Board of Governors - and its various committees. SAIT provided the applicant with most of the requested records but applied several exceptions in the Act to withhold information. In a detailed consideration of the exception for local public body confidences, the Commissioner found that this exception (section 23(1)(b) in conjunction with section 18 of the FOIP Regulation) applied in cases where it was found that disclosure could reasonably be expected to reveal the substance of the Board's and Committees' deliberations on matters discussed in private. He found that SAIT had properly applied the exception for advice from officials (section 24(1)) to records that would reveal decision-making processes of its governing body. Taking into consideration the importance of SAIT's connections with external organizations in maintaining its competitive position, the Commissioner also found that SAIT had properly applied the exception for harm to the economic interests of a public body (section 25(1)(c)). SAIT was not required to disclose any of the requested information under the Act's provision for disclosure in the public interest (section 32(1)(b)).

F2005-IR-004 Southern Alberta Institute of Technology (released August 9, 2005)

The Commissioner received a complaint regarding SAIT's use of Social Insurance Numbers (SINs) to link a student's current registration records with records of a previous registration by the student under a different name. The investigation found that post-secondary educational bodies are required to collect SINs for income tax purposes. Use of the SIN as an identifier for student records is one of the purposes for which the information is collected by the public body, so that use of the SIN is permitted under section 39(1)(a) of the FOIP Act. The investigation also found that the FOIP Act allows a public body to collect personal information for identification purposes (section 33(c)). The SIN is an identification option for a student; collection of the SIN is therefore permitted under section 33(c).

F2004-023 Edmonton Police Service (released August 23, 2005)

An applicant, the subject of a police investigation, requested records related to his interviews with the EPS. The records included a videotape and a record of a polygraph test. The Adjudicator found that EPS had properly withheld the records under the exception for harm to an ongoing law enforcement investigation (section 20(1)(f)). The Crown was in the process of assessing information for a possible prosecution, which did not necessarily result in the termination of the police investigation. The Adjudicator accepted the evidence and arguments of the public body that disclosure could reasonably be expected to cause harm to the investigation, including contamination of witnesses.

F2005-IR-005 University of Calgary (released August 29, 2005)

The Commissioner received two complaints regarding records that were donated to the University Archives. The records concerned a labour dispute and included copies of the complainants' personal correspondence. The investigation found that records donated by the third party to the University Archives are not subject to the FOIP Act; as section 4(1)(j) excludes material deposited in the archives of a public body by a person or entity other than the public body.

It is noted in the report that the University closed public access to the records of the complainants upon notification of their complaint and subsequently presented a proposal to resolve the matter.

F2004-028 City of Calgary (released October 11, 2005)

The applicant originally requested records relating to severance agreements and employment-related benefits for the City's management employees, commissioners and executive officers in 2001. In Order F2003-002, the Adjudicator ordered the release of four agreements, except for the names, retirement dates and signatures of the employees. He also ordered the City to conduct a further search for responsive records. This Order concerns the City's response to that requirement. The Adjudicator confirmed the City's decision to disclose the precise sums, but not information that would identify the individual recipients.

Decision regarding Edmonton Police Service (EPS) application to disregard two access requests (released November 4, 2005)

The EPS asked the Commissioner for authorization to disregard two access requests under section 55 of the FOIP Act. The public body argued that the requests were "frivolous and vexatious" because the applicant would obtain the information requested, including information that would be severed under the FOIP Act, through disclosure under another process (the Law Enforcement Review Board appeal process). The applicant, counsel for the Criminal Trial Lawyers' Association, argued that disclosure under the FOIP Act would be more timely than under the LERB process. The Commissioner found that the fact that requests related to outstanding appeals was evidence that the information sought was a matter of importance to the applicant. The Commissioner did not find the two requests "frivolous and vexatious" and, therefore, did not authorize the public body to disregard the requests.

F2005-008 Northern Alberta Institute of Technology (NAIT) (released Nov 16, 2005)

The applicant, a former student who was required to leave a cytotechnology program, made several requests to NAIT under the FOIP Act, including a request to correct a grade on her transcript. NAIT refused to change the grade, arguing that it need not correct where there is a dispute about a fact or where a grade is a professional opinion. The Commissioner stated that an application for correction should not be dismissed on the basis that there is a dispute about a fact. A correction can be refused only in circumstances where it is not possible to make a factual determination about the matter at issue. He agreed that a public body cannot correct a professional opinion, but stated that a public body could correct an error in the application of a rule, such as a mathematical error in calculating a result. The Commissioner upheld NAIT's refusal to make a correction, finding that the request amounted to asking that the method by which the grade was determined be changed. This is a matter that cannot be the subject of correction under section 36 of the Act. The Commissioner did order the institution to provide policy information to the applicant for the years in question.

F2003-015 Capital Health Authority (released November 16, 2005)

This Order concerns the same applicant as in the previous Order (F2005-008) and involves multiple requests, including requests for correction of personal information. The applicant, for whom the public body had provided the practical/clinical portion of a training program, asked for correction of performance scores related to the training. The Authority refused to change the scores. The applicant claimed in one request that her scores had been “falsified”, which the Commissioner stated would be a matter subject to correction. He reviewed her arguments and found that the assignment of codes involved the application of a rule and there was no basis on which to uphold the request to correct the so-called “falsifications.” Another request asserted that a different method of evaluation should be applied. The Commissioner upheld the Authority’s refusal to make the corrections, finding that the requests amounted to asking for a change in the method by which the grade was determined. This is a matter that cannot be the subject of correction under section 36 of the Act.

New Information Management Publications

Two new guides are now available on the Government of Alberta’s Information Management web site (<http://www.im.gov.ab.ca>):

- The [Managing Instant Messages](#) guide brings together existing policies and legislation that govern the management of instant messages in the Government of Alberta and describes guidelines and practices that should be established by government organizations. It also provides tips to help employees manage their instant messages more effectively.
- The guide [Naming Conventions for Electronic Documents](#) provides guidance on developing approaches for naming electronic documents consistently across an organization. The naming practices included in this guide apply to electronic documents created in a desktop environment and stored in shared or common directory structures.

FOIP Training

The dates and locations for upcoming training courses are:

- Introduction and Privacy - January 25, 2006...Edmonton
- Access to Information - January 26, 2006...Edmonton
- Managing a FOIP Program - January 27, 2006...Edmonton

For more information, and additional course dates, please see the training calendar on the FOIP web site at <http://www.gov.ab.ca/foip/training/index.cfm> - [Calendar Glance](#).

Arrangements can be made for the delivery of training at your workplace. Also, arrangements can be made for onsite delivery of a training session customized to meet the needs of your public body.

For further details, contact Janet Cummings at phone at (780) 415-2407 or by e-mail janet.cummings@gov.ab.ca.

Meeting Calendar

Municipal - Edmonton	December 1, 2005	Strathcona County
Health Network	December 5, 2005	Edmonton

Did You Know...

... The Privacy Commissioner of Canada's 2004-2005 Annual Report on the federal *Privacy Act* and 2004 Annual Report on the *Personal Information Protection and Electronic Documents Act (PIPEDA)* were tabled in Parliament on October 6, 2005. To view the annual reports, click on:

- Annual Report to Parliament 2004-2005 — Report on the *Privacy Act* (http://www.privcom.gc.ca/information/ar/200405/200405_pa_e.asp)
- Annual Report to Parliament 2004 — Report on the *Personal Information Protection and Electronic Documents Act* (http://www.privcom.gc.ca/information/ar/200405/2004_pipeda_e.asp)

... The 27th International Conference on Data Protection and Privacy Commissioners, held in Montreux, Switzerland, September 14-16, 2005, adopted a final declaration aimed at strengthening the universal nature of data protection principles. The Conference, attended by Alberta's Information and Privacy Commissioner, also adopted two resolutions, one on the use of biometric data in passports, ID cards and travel documents, and the other on the use of personal data for political communication.

The news release is available at
http://www.privacyconference2005.org/fileadmin/doc/edsb_en.doc

Alberta Government Services
Access and Privacy Branch
3rd Floor, 10155 – 102 Street
Edmonton, Alberta T5J 4L4
Phone: (780) 422-2657
Fax: (780) 427-1120
Web site: www.gov.ab.ca/foip

FOIP Help Desk:
Phone: 780-427-5848
Toll free dial 310-0000 first
E-mail: foiphelpdesk@gov.ab.ca

If you have an e-mail address, please let us know. Send an e-mail to foiphelpdesk@gov.ab.ca stating your name and organization and we will add you to our e-mail distribution list.