

Exceptions to Disclosure in the *FOIP Act*

1) Exceptions to Disclosure in *FOIP*

This is an excerpt from Part 1 Division 2 of the *FOIP Act* which sets out the exemptions to disclosure. The exceptions included below represent those cited most often in the minutes from Council and Council Committee meetings from May 2017 to May 2018. For the full list of the Exceptions to Disclosure, please see Part 1 Division 2 of the *FOIP Act*. Where outlined, the timelines when *FOIP* no longer applies if the record has been in existence for a prescribed period of time is also included below.

Disclosure harmful to business interests of a third party

16(1) The head of a public body must refuse to disclose to an applicant information

- (a) that would reveal
 - (i) trade secrets of a third part, or
 - (ii) commercial, financial, labour relations, scientific or technical information of a thirs part,
- (b) that is supplied, explicitly or implicitly, in confidence, and
- (c) the disclosure of which could reasonably be expected to
 - (i) harm significantly the competitive position or interfere significantly with the negotiating position of the third part,
 - (ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,
 - (iii) result in undue financial loss or gain to any person or organization, or
 - (iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into an labour relations dispute

Disclosure harmful to personal privacy

17(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if

- (a) the third party has, in the prescribed manner, consented to or requested the disclosure.
 - (i) the personal information is about an individual who has been dead for 25 years or more

Confidential evaluations

19(1) The head of a public body may refuse to disclose to an applicant personal information that is evaluative or opinion material compiled for the purpose of determining the applicant's suitability, eligibility or qualifications for employment or for the awarding of contracts or other benefits by a public body when the information is provided, explicitly or implicitly in confidence.

Disclosure harmful to intergovernmental relations

21(1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonable be expected

- (a) harm relations between the Government or its agencies and any of the following or their agencies:
 - (i) the Government of Canada or a province or territory of Canada,
 - (ii) a local government body

21(4) This section does not apply to information that has been in existence in a record for 15 years or more.

1994 cF-18.5 s20; 1995 c17 s9; 1999 c23 s13

Local public body confidences

23(1) The head of a local public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to reveal

- (a) a draft of a resolution, bylaw or other legal instrument by which the local public body acts, or
- (b) the substance of deliberations of a meeting of its elected officials or its governing body or a committee of its governing body, if an Act or a regulation under this Act authorizes the holding of that meeting in the absence of the public.

23(2) Subsection (1) does not apply if

- (b) the information referred to in that subsection is in a record that has been in existence for 15 years or more.

1994 cF-18.5 s22

Advice from officials

24(1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to reveal

- (a) advise, proposals, recommendations, analysis or policy options developed by or for a public body or a member of the Executive Council
- (b) consultations or deliberations involving
 - (i) officers or employees of a public body,
 - (ii) a member of the Executive Council, or

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- (iii) the staff of a member of the Executive Council
- (c) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the Government of Alberta or a public body, or considerations that related to those negotiations
- (d) plans relating to the management of personnel or the administration of a public body that have not yet been implemented,
- (g) information, including the proposed plans, policies or projects of a public body, the disclosure of which could reasonable be expected to result in disclosure or a pending policy or budgetary decision
- (h) the contents of a formal research or audit report that in the opinion of the head of the public body is incomplete unless no progress has been made on the report for at least 3 years.

24(2) This section does not apply to information that

- (a) has been in existence for 15 years or more

24(2.2) Section (2.1) does not apply to a record or information described in that subsection

- (a) if 15 years or more has elapsed since the audit to which the record or information related was completed, or
- (b) if the audit to which the record or information relates was discontinued or if no progress has been made on the audit for 15 years or more.

Disclosure harmful to economic and other interests of a public body

25(1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonable be expected to harm the economic interest of a public body or the Government of Alberta or the ability of the Government to manage the economy, including the following information:

- (b) financial, commercial, scientific, technical or other information in which a public body or the Government of Alberta has a proprietary interest or a right of use and that has, or is reasonably likely to have, monetary value;
- (c) information the disclosure of which could reasonably be expected to
 - (i) result in financial loss to,
 - (ii) prejudice the competitive position of, or
 - (iii) interfere with contractual or other negotiations of, the Government of Alberta or a public body;

Testing procedures, tests and audits

26 The head of a public body may refuse to disclose to an applicant information relating to

- (a) testing or auditing procedures or techniques,
- (b) details of specific tests to be given or audits to be conducted or
- (c) standardized tests used by a public body, including intelligence tests,

if disclosure could reasonably be expected to prejudice the use or results of particular tests or audits.

Privileged information

27(1) The head of a public body may refuse to disclose to an applicant

- (a) information that is subject to any type of legal privilege, including solicitor-client privilege or parliamentary privilege.