

Manitoba Ombudsman Practice Note

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DOCUMENTATION ABOUT PROCESSING ACCESS REQUESTS UNDER THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT (FIPPA)

Adequate documentation in a public body's FIPPA file about the processing of an access request is important for effectively managing the request, including addressing any issues that arise during or after the process.

Public bodies typically create a FIPPA file and assign an identification number to track the request from start to finish. The processing of an access request occurs over the course of 45 days (or 75 days if an extension is taken). This work is often done incrementally, in the midst of other work, and may involve various consultations and decision points.

Having a well-documented FIPPA file enables a public body to:

- Manage and track the status of all the activities involved in processing the request.
- Continue processing the request in the event of absences (vacation or illness, for example) by the access and privacy coordinator or other key staff.
- Support the internal decision-making process about the request, such as the search for responsive records, decisions about fees and fee waivers, the application of exceptions, the exercise of discretion, etc.
- Efficiently communicate the basis for its decisions externally:
 - to explain the basis for decisions to the applicant
 - provide information to explain and support its decisions when responding to complaints being investigated by Manitoba Ombudsman
 - prepare for a review by the information and privacy adjudicator, if requested by the ombudsman
 - prepare evidence for court if the applicant appeals a refusal of access decision

Thorough documentation of access decisions can also assist a public body in developing standard practices that can be useful for future decisions. For example, documented decisions can provide internal guidance on how the public body has interpreted provisions of FIPPA. This helps to promote consistency and efficiency when processing future access requests.



Checklist for Standard Contents of a FIPPA File

This checklist can be used to ensure that FIPPA files contain all relevant documentation about the processing of a request.

- The access request and date the request was received.
- The public body's identification number for the access request.
- A tracking document, tracking actions taken and the date they occurred.
- Detailed records of any consultations – including the date, type of contact, and substance of the consultation – with the applicant (including any clarification of the access request), employees of the public body, legal counsel, third parties or other public bodies.
- All correspondence (including attachments) that are sent or received relating to the request. This includes all letters, emails, fax cover sheets and transmission reports, and legal advice or opinions.
- Reasons or basis for requesting the applicant to provide additional information in relation to the request under section 12.1, including correspondence associated with this request.
- When fees are applied, a record of how the fees were calculated including the activities for which a fee was charged, the time estimated for each chargeable activity, the basis for determining that the estimated time was reasonable in relation to the request, and the estimate of costs form.¹
- When an extension of the time for responding is taken, the reasons why a specific provision under section 15 of FIPPA applies to the request and a copy of the extension letter.
- With respect to the search for responsive records:
 - copies of file lists or indexes, records schedules, and other documentation used to identify potential locations of responsive records
 - details about the search for responsive records, including instructions and decisions about search parameters and locations searched, as well as search results
 - when another employee or division is performing the search, the name, position and contact information of the individual(s) conducting the search
- The number of responsive records and/or the number of pages of each record. It may be helpful to create an index of records.
- If a request is disregarded, document the reasons why it is being disregarded as well as who made the decision (in the event that further explanation is required).
- When access is refused, a record of:
 - the reasons why each exception was applied
 - the consideration given to the applicability of any limits to the exception
 - for discretionary (“may”) exceptions, the reasons why the public body chose

¹ See our practice note *Preparing Fee Estimates under FIPPA* accessible at www.ombudsman.mb.ca.

- not to release the information
 - who made the decisions (in the event that further explanation is required)
- A copy of the responsive records.
- If needed, a working copy of the record with any severing and applicable exceptions noted on the record. Working with digital copies cuts down on the number of paper copies required.
- A copy of the response letter to the applicant. If access is refused to any information in the records, maintain a copy of the record as released to the applicant with severing applied and exceptions noted.
- For any information (about processing the request and decisions made) that is not on the FIPPA file, the nature of the information and where the information can be located.

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