



Protecting privacy. Promoting transparency.

Early notice and Privacy Impact Assessments to the OIPC under the *Freedom of Information and Protection of Privacy Act* (Updated July 2012)

Recent changes to the *Freedom of Information and Protection of Privacy Act* (“FIPPA”) require most public bodies planning a “data-linking initiative” or a “common or integrated program or activity” to provide early notice to the Office of the Information and Privacy Commissioner (“OIPC”).

Most public bodies must also submit a “privacy impact assessment” (“PIA”) to the Commissioner for review and comment if it addresses a common or integrated program or activity or a data-linking initiative.¹

EARLY NOTICE

The head of a public body must notify the OIPC of a data-linking initiative or of a common or integrated program or activity when a project is in the conceptual stage.² The notice should contain the following information:

1. A general description of the project and its purpose;
2. The lead public body and any other parties who are participating;
3. A description of the type of personal information that will be linked;
4. The anticipated submission date of the PIA to the Commissioner for review and comment; and
5. The contact information of the person responsible for completing the PIA.

¹ See s. 69 of FIPPA for precise requirements, including exemptions for the health sector. Please refer to the end of this document to read the definitions.

² See s. 69(5.5) of FIPPA.

Public bodies should provide early notice by letter to the OIPC to the attention of Elizabeth Denham, Information and Privacy Commissioner for British Columbia.

PRIVACY IMPACT ASSESSMENT

Under FIPPA, the Minister of Labour, Citizens' Services and Open Government is responsible for issuing directions to public bodies on how to complete a PIA. FIPPA requires public bodies to follow these directions. Directions are located on the Ministry's website.³

Under FIPPA, ministries must submit all PIAs to the Minister of Labour, Citizens' Services and Open Government. If a PIA is respecting a common or integrated program or activity or a data-linking initiative, FIPPA requires the Minister to submit the PIA to the OIPC during the development of the project. All other public bodies that are not Ministries must submit PIAs directly to the attention of the Commissioner.⁴

Although the Ministry provides directions on how public bodies must complete PIAs, the OIPC may require additional information when it reviews a PIA including:

1. A detailed description of the project, including;
 - i. The project name;
 - ii. The expected project implementation date; and
 - iii. The contact information of the person responsible for completing the PIA;
2. A copy of your letter to the Commissioner providing early notice of the initiative;
3. A proportionality analysis explaining how the benefits of the project outweigh the risks to privacy;
4. An information flow diagram and legal authority for each data flow;
5. Privacy risk assessment and mitigation plans; and
6. Monitoring and/or audit plans.

Once the Commissioner receives a PIA, an OIPC policy analyst will review it. The policy analyst may raise questions or seek clarification of the PIA from the public body in areas such as legal authority or privacy analysis.

The OIPC's review and comment of a PIA will be complete once a public body has addressed any questions raised by the policy analyst. Completion of a PIA review is not approval of the project. The policy analyst's comments are just that, comments, and it remains the responsibility of public bodies to ensure that they comply with their duties and obligations under FIPPA.

³ See the Ministry of Labour, Citizens' Services and Open Government under "Policies, Guidelines and Forms" online at http://www.cio.gov.bc.ca/cio/priv_leg/foippa/guides_forms/guide_index.page?

⁴ See FIPPA, s. 69(5.4).

DATA LINKING REGULATIONS

Another recent change to FIPPA is that the government can prescribe regulations related to data linking initiatives.⁵ Public bodies considering a data-linking initiative should check with the Ministry of Labour, Citizens' Services and Open Government to determine whether the government has prescribed any data-linking regulations.⁶

APPLICABLE FIPPA DEFINITIONS

Here are excerpts of definitions from FIPPA that appear in this document. For a full listing of definitions, refer to Schedule 1 of FIPPA.

"data linking" means the linking or combining of personal information in one database with personal information in one or more other databases if the purpose of the linking or combining is different from

- a) the purpose for which the information in each database was originally obtained or compiled, and
- b) every purpose that is consistent with each purpose referred to in paragraph (a).

"data-linking initiative" means a new or newly revised enactment, system, project, program or activity that has, as a component, data linking between

- a) two or more public bodies, or
- b) one or more public bodies and one or more agencies.

"common or integrated program or activity" means a program or activity that

- a) provides one or more services through
 - (i) a public body and one or more other public bodies or agencies working collaboratively, or
 - (ii) one public body working on behalf of one or more other public bodies or agencies, and
- b) is confirmed by regulation as being a common or integrated program or activity.

Please contact the OIPC if you have questions at:

Phone: 250-387-5629

Email: info@oipc.bc.ca

⁵ See s. 36.1 of FIPPA.

⁶ As of June 2012, the Ministry has not prescribed any data-linking regulations.