

Explanatory Note
Notice under Section 16
Third Party Business Interests

The *Freedom of Information and Protection of Privacy (FOIP) Act* provides a right of access to records held by public bodies. We have received a request for access to records in which you have an interest.

We are required to provide access to as much of the requested records as possible. We may withhold only the information covered specifically in the FOIP Act's exceptions.

We are notifying you in order to give you an opportunity to express any concerns that you may have about disclosure of the records. To be withheld from disclosure, the third party business information must meet *all three* of the criteria in section 16 of the FOIP Act, harm to the business interests of a third party.

These criteria are:

1. The information is a trade secret or commercial, financial, labour relations, scientific or technical information of a third party.
2. The information was supplied, implicitly or explicitly, in confidence. There must be evidence that the information has been consistently treated in a confidential manner.
3. One or more specified harms will occur if the information is disclosed. The disclosure of the information will:
 - harm significantly the competitive position or interfere significantly with the contractual or other negotiations of the third party;
 - result in similar information no longer being supplied to the public body where it is in the public interest that similar information continues to be supplied (this does not apply where a statute or regulation requires that the information be supplied);
 - result in undue financial loss or gain to any person or organization; or
 - 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 a labour dispute.

A public body must refuse to disclose any information about a third party that was collected on a tax return or collected for the purpose of determining tax liability or collecting a tax.

You have two options:

1. You may consent in writing to the disclosure of all or some of the information; or
2. If you feel that the provisions in section 16 apply to some or all of the information in the requested records, you may make written representations to us. Your representations should be directed only to information you would like to have withheld from disclosure. It must provide detailed evidence to support your claim for the exception. Please mark the exact portions of the records you wish to have withheld.

Your representations will be one of the factors that we consider in deciding whether or not to disclose all or part of the records. If we decide to disclose all or part of the records, you will be notified beforehand. If you disagree with the decision, you may ask the Information and Privacy Commissioner to review the decision.