

Sample Operational Policy Access to Information and Checklist

1. Purpose

The [redacted] of [redacted] (Municipality)
(municipality type) (name)

recognizes the right of access by the public to information in the possession or under the control of the Municipality and is committed to fulfilling its obligations under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) and *The Local Authority Freedom of Information and Protection of Privacy Regulations* (LA FOIP Regulations).

The purpose of this policy is to establish appropriate controls and guidelines around providing access to information as required to carry out the Municipality's statutory obligations pursuant to LA FOIP and the Municipality's legitimate business and public interest mandates, including the principles of open government: transparency, accountability, accessibility and participation.

2. Scope

This policy applies to the head, all employees, contractors and councillors when conducting municipality business.

3. Definitions

Access to Information Request – The formal process by which an individual may request access to the Municipality's records under the provisions of LA FOIP. The term freedom of information request (FOI) is also used to describe an access to information request.

Administrator – the administrator of the Municipality appointed pursuant to section 110 of *The Municipalities Act* (or section 49 of *The Northern Municipalities Act*).

Applicant – any individual who requests access to a record under LA FOIP.

City Clerk – the City Clerk of the Municipality appointed pursuant to section 85 of *The Cities Act*.

Contractor – an individual or company retained under a contract to perform services for the Municipality including any information management service providers (IMSP).

Control – is where the Municipality has the authority to manage the record including restricting, regulating and administering its use, disclosure or disposition.

Duty to Assist – the Municipality’s obligation to provide assistance to an applicant including responding to a request for access openly, accurately and completely.

Employee – an individual employed by the Municipality, including an individual retained under a contract to perform services for the Municipality (LA FOIP s. 2(1)(b.1)).

Exemption – a mandatory or discretionary provision under LA FOIP that authorizes the Municipality to refuse to give access to information contained in a record.

Formal Request – a request for access to information, made in writing or presented on the prescribed Access to Information Request Form that states the applicant wishes to make application under LA FOIP.

Head – the Mayor/Reeve of the Municipality (LA FOIP s. 2(1)(e)). The head may delegate in writing a power granted the head or a duty vested in the head to one or more officers or employees of the Municipality (LA FOIP s. 50).

Informal Request – a request for information, which is general in nature, can be easily accessed in a minimal amount of time and can typically be handled by the area, branch or unit responsible for the information. Is not reviewable by the Saskatchewan Information and Privacy Commissioner (IPC).

Information – what a record contains in any format. It is also a term used to refer to the content of an electronic database or application. Regardless of the form, all

recorded information in the possession or under the control of the Municipality is a record.

LA FOIP – *The Local Authority Freedom of Information and Protection of Privacy Act.*

Personal Information – means information about an identifiable individual of a personal nature which may include but is not limited to: information about an individual's race; religion; family status; age; birthdate; place of origin; employment or criminal history; financial information; health services number; driver's license number; social insurance number; home address, email address or telephone number; physical or mental condition of an individual; an individual's personal views or opinions except where they are about another individual (LA FOIP s. 23(1)).

Possession – physical possession plus a measure of control of the record.

Privacy – is the right to keep certain information private; freedom from unauthorized access to, use, or disclosure of one's personal information.

Record – means a record of information in any form and includes information that is written, photographed, recorded, digitized or stored in any manner, but does not include computer programs or other mechanisms that produce records (LA FOIP s. 2(1)(j)).

Third Party – means a person or company other than the Municipality or the applicant (LA FOIP s. 2(1)(k)).

4. Policy

LA FOIP and *The Cities Act, The Municipalities Act or The Northern Municipalities Act, 2010* determine the Municipality's obligations to provide access to information in the Municipality's possession or under its control. Every individual including employee and contractor with access to Municipal information, as a result of their employment or contract with the Municipality, is responsible for managing that information in accordance with this policy. Also, to the extent that an elected official is engaged in carrying out the mandate or functions of the Municipality, then LA FOIP most likely will apply to those records.

4.1 Access to Information

Pursuant to LA FOIP, an individual has the right to request access to any information in the possession or under the control of the Municipality unless specific and limited reasons apply in which it may be withheld.

The Municipality has a duty to assist in providing as much information as possible to the applicant while ensuring confidential information including personal and third party information is protected in accordance with LA FOIP.

4.2 Informal Requests

Informal requests are handled by the employee responsible for the information, in consultation with the administrator as necessary. When these types of requests are made, consider the application of section 53.2 of LA FOIP.

4.3 Formal Requests

An applicant who wishes to make a formal request under LA FOIP is to complete the [Access to Information Request Form](#) available on the IPC's website or makes a request in writing by email or letter stating the request is being made under LA FOIP.

The applicant is to send the request confidentially to the administrator. If an employee receives the formal access request, it should be immediately forwarded to the person with delegated responsibility to process access to information requests.

Formal requests are to be handled confidentially and immediately on receipt. The name of the applicant should be kept confidential and only shared on a need-to-know basis.

Formal access to information requests are subject to a \$20.00 application fee pursuant to LA FOIP Regs.

Processing fees are determined in accordance with LA FOIP Regs.

The administrator (or person responsible) will use an access request checklist so as to be sure that all the steps have been taken (sample access request checklist attached).

Employees shall assist the administrator (or person responsible) as necessary in obtaining information responsive to access to information requests in accordance with the timelines legislated under LA FOIP and contained in the access request checklist.

4.4 Duty to Assist

The Municipality has a duty to provide assistance to an applicant including to respond to a request for access openly, accurately and completely; to provide an explanation of any term, code or abbreviation used in the information, or to refer an applicant to a person who is able to supply an explanation if the Municipality is unable to do so.

4.5 Clarifying or Narrowing

If a formal access request is unclear, in other words, the administrator cannot determine the records being requested, the administrator should write the applicant asking the applicant to clarify the access request. This should be done as soon as possible upon receipt of the access request.

If the access request is clear as to the records being requested, the administrator, as part of the duty to assist, can contact the applicant to see if the access request can be further focused. In other words, to see if fewer records might meet the purpose of the applicant and perhaps keep fees down. This should be done as soon as possible upon receipt of the access request.

4.6 Exemptions

LA FOIP provides for the protection of certain information. There are mandatory and discretionary provisions under LA FOIP authorizing the head to refuse to give access to information contained in a record.

When determining whether to apply discretionary exemptions, the head will exercise good faith in balancing the legitimate business or legal concerns of the Municipality and the principles of open government.

4.7 Reviews

An applicant who is not satisfied with how the Municipality has processed an access to information request may apply to the IPC by emailing intake@oipc.sk.ca for a review of the matter.

The Municipality will cooperate with the IPC in the conduct of the review.

The Municipality will work with the IPC, the applicant, and any third parties to come to an acceptable review result, whenever possible.

The head will determine whether to comply or not comply with any recommendations of the IPC following a review, with regard for the requirements of LA FOIP, the public interest, mandate of the Municipality and the principles of open government.

If the applicant and/or third party are not satisfied with the head's decision to comply or not comply with the recommendation of the IPC, they can appeal that decision to the Court of King's Bench.

4.8 Open government

The Municipality is committed to supporting the concepts of transparency, accountability, accessibility and participation and as such is committed to proactively providing information.

5. Roles and Responsibilities

The administrator is responsible for:

- Corporate information, including personal information in the possession or control of the Municipality of its residents and employees, etc.

- Providing guidance with respect to this policy and ensuring this policy is followed.
- Receiving and managing all access to information requests including the application of all exemptions and working with the IPC when a review is undertaken.

Employees are responsible for:

- Forwarding all access requests to the administrator.
- Assisting with the search for responsive records.
- Compliance with this policy and related procedures and guidelines.

6. Related Forms

- [Access to Information Request Form](#):
- Information and Privacy Commissioner, [Sample Access Request Checklist](#)
- [Sample letters](#), Ministry of Justice and Attorney General, Access and Privacy Branch website

7. Reference Material

Legislation

- [*The Local Authority Freedom of Information and Protection of Privacy Act, The Local Authority Freedom of Information and Protection of Privacy Regulations, The Cities Act, The Municipalities Act,*](#)
- [*The Northern Municipalities Act, 2010,*](#)

Other resources:

- [Publications Centre for the Ministry of Justice and Attorney General](#)
- [City of Regina website](#)
- [City of Saskatoon website](#)

Other IPC resources (www.oipc.sk.ca):

- [*Rules of Procedure*](#)
- [*Best practices for Mayors, Reeves, Councilors, and School Board members in handling records that contain personal information and personal health information*](#)
- [*What Councillors should know about LA FOIP*](#)

- [IPC Guide to LA FOIP](#)
- [Understanding the Duty to Assist](#)
- [Steps to Charging Fees](#)
- [Fee Estimates – Quick Calculation Guide](#)
- [Best Practices for Responding to Access Requests](#)
- [Responsive Records Search Checklist](#)
- [Search Checklist](#) Blog
- [Severing](#) Blog

The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP)

v.4

Sample Access Request Checklist

There are several key activities involved with processing an Access to Information request and you need to make sure all activities are completed within the legislated timeframes.

The following checklist can be used to ensure that all key tasks are completed, and timelines are met. This is intended as a guideline and can be codified to suit the needs of your local authority. It is not always necessary to use the full 30 days allowed in the Act. A response should be provided sooner whenever possible.

Day 1 (Day After Receipt)		
Key Tasks	Task Completed	LA FOIP Tips
Request received by local authority.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	If local authority charges the \$20 application fee, then ensure it is enclosed, otherwise application not yet fully made unless fee is waived.
Log the request.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Make sure staff are aware of what an Access Request is, the urgency of the request, and where to immediately forward the request if received in their office.
Set up an LA FOIP file	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Begin making notes right away documenting the steps you have taken in processing the request.
Notify Head if required local authority set out in policy.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	When you notify the Head (e.g., Mayor, Reeve) do not disclose the identity of the applicant.
Start thinking about where responsive records might be (make notes).	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Notifying other staff should only be on a need-to-know basis.

Day 2		
30 Calendar Days to Respond	Thirty-day clock starts	The thirty days start the day after the request is received by the local authority. See LA FOIP s. 7
Check to see if a waiver of fees has been requested.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	If a waiver has been requested, need to ensure that the applicant has provided what is needed in order to make a decision to grant. If not, immediately advise the applicant what is needed. See LA FOIP Regulations s. 8.
Develop a search strategy: identify the area(s) of your local authority that may have responsive records and discuss the request with staff in the area(s).	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Do not forget to search for responsive records in the local authority's possession and control (e.g., contractors; storage off site). Remind program/branch areas of the serious nature of access requests and that search efforts should include <u>all</u> responsive records. Only share the identity of the applicant with those with a need-to-know
Determine whether clarification from the applicant will be required to process the request.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	If clarification is required, try to contact the applicant by telephone immediately. If unable to reach the applicant, send a clarification letter outlining the details required to process the request. See LA FOIP s. 5.1 , the duty to assist which requires a local authority to act openly, honestly and accurately with the applicant. This means making phone calls to the applicant to understand or narrow the request.
Consider if request may need to be transferred to another government institution or local authority, in accordance with LA FOIP.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Transfers must occur within 15 days of receipt by the local authority. See LA FOIP ss. 7(1)(b) and s. 11.

Days 3 to 10		
Finalize which program area(s) might have responsive records.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Advise program areas to search for responsive records and keep documentation of direction and responses received.
Program areas retrieve records and forward originals to Head or delegate (Administrator or access and privacy coordinator).	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Keep accurate and complete notes of search on the Access Request file and keep copies of correspondence with all that were engaged.
Consider need for time extension if circumstances in ss. 12(1) are present (e.g. large volume of records or requests, external consultations necessary or third party notice is required) and provide notice to applicant.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Time extensions cannot exceed 30 days past the original 30-day deadline.
Copy retrieved records and return originals to program area.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	See LA FOIP ss. 12(1).
Consider fees and send estimate if applicable with request for deposit. Clock stops until applicant indicates they agree to proceed and fee deposit is received.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	<p>A cost estimate must be provided if the fees will exceed \$100.</p> <p>See LA FOIP Regulations s. 6</p> <p>If a fee estimate will be provided, do not complete search; rather, estimate fees based on representative sample.</p> <p>See LA FOIP s. 9 and LA FOIP Regulations s. 5</p> <p>A local authority can require a deposit of up to 50% of the estimated fees prior to proceeding with work on the access request.</p> <p>If a fee is going to be charged, no further work should be done until the 50% deposit is paid.</p>

If there are third parties and if the head intends to release the records, send notices to third parties.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	See LA FOIP PART V
Days 11 to 17		
If 50% of fee is paid, clock starts again; proceed with work.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Continue consultation with program areas.
Prepare index of records and paginate the record.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	The index of records is a listing of the responsive records.
Detailed line-by-line review of records; apply severance.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Keep accurate and complete records of reasons for each withheld record or severed portion. See LA FOIP s. 8.
Apply exemptions and quote necessary exemptions where there is severing.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Keep accurate records of time spent severing if a fee estimate was issued.
Day 15		
<u>Last day</u> for transferring the request to another government institution or local authority.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	If you are transferring the application, remember to provide a copy of the transfer letter to the government institution or local authority receiving the transfer and the applicant. See LA FOIP s. 11
Day 18 to 24		
Consider whether a time extension is needed, if not already decided.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	Ask those involved in consultation process to respond immediately to avoid a time extension. See LA FOIP s. 12

Determine which third parties have consented to release of the records.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	
Obtain approval for records to be released.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	
Prepare the record and index of records. It is the administrator's decision as to whether the index of records is shared with the applicant.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	
Provide the Administrator with recommendations to finalize the request.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	
Days 25 to 27		
If necessary, finalize actual fee, to incorporate into final letter to applicant. Records are not provided until all fees are paid if any are charged.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	<p>The fees cannot exceed the original estimate.</p> <p>See LA FOIP s. 9 and LA FOIP Regulations s. 5</p>
Send final response letter (called a section 7 decision) to applicant with records (unless access is fully denied, or time extension was warranted).	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	<p>Ensure all correspondence, documentation and notes have been included in the file. It is important that notes of the steps taken be made as the access request is processed.</p> <p>Do not release any third party information that the local authority intends to release in the public interest until the expiry of the request for review period and verification that the third party has not requested a review.</p> <p>See LA FOIP ss. 36(3) and 38(4).</p>

Day 30		
Close file and maintain the file with other LA FOIP files.	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	<p>If the section 7 decision is not provided to the applicant by this deadline, it is a deemed refusal and applicant may request a review by the IPC (unless the timeline had been extended).</p> <p>See LA FOIP ss. 7(5) and ss. 38(1)(b).</p>