Passenger Transportation Board
MOVING FORWARD, TOGETHER

Access to information and privacy

Context

The Board publishes summaries of applications, not complete application packages. The Board sometimes receives standard submission requests or Freedom of Information and Protection of Privacy Act (FIPPA) requests from submitters or other interested parties. Standard requests must comply with submission periods for information and application materials vary according to the type of application the submission is made against. Parties making a FIPPA request have 30 business days to submit.

This policy outlines how the Board manages requests for information under the Act, FIPPA, and the Administrative Tribunals Act (ATA). It also outlines the Board's policy regarding records, information, and reports the Board considers relevant to a proceeding or application.

Applicability

This policy applies to:

- Freedom of Information Requests
- All information and data received in an application
- All information and data received in a submission responding to an application
- Records, information, and reports that the Board considers relevant to a proceeding or application, including records, information, and reports obtained or produced by or for the Board

The policy does not apply to:

- Content of decisions made public by the Board
- Any information already publicly available by, but not limited to the Board

Policy

FIPPA

FIPPA sets out the access and privacy rights of individuals as they relate to the public bodies, such as the Board. FIPPA applies to records in the custody or under the control of public bodies. Access to information is provided except where release of that information is prohibited by FIPPA or its release would cause a specific harm.

The Board will process FIPPA requests within the timelines specified in FIPPA. FIPPA requests will not be given priority over other Board operations to meet submission timelines; however, the Board will make reasonable efforts to process FIPPA requests in a timely manner.

Section 21 of FIPPA does not apply broadly to application materials as the bulk of information is not considered as submitted in confidence. Documents such as financial statements and those containing personal or financial information are, however, considered to be confidential.

Submissions

Information severed under section 61 of the ATA is the type of information that is set out in the Rules of Practice and Procedure (RPP) 17 “Confidential Information from the Applicant”.

The Board may provide applicants with notice of the FIPPA requests and provide them with an opportunity to comment on the material that will be disclosed.

RPP 13 (Submissions) applies to people who receive disclosure under FIPPA and who then want to make a submission on the application.

RPP 15 (Late submissions) applies to people who receive disclosure under FIPPA and who then apply to the Board to make a late submission on the application.

RPP 16 (Supplemental submission) applies to submitters of record who want to make additional submissions as a result of receiving disclosure under FIPPA.

TNS

The Board will provide the following information to all those who sent in submissions on TNS applications:

- Application packages after making redactions, where necessary, to protect confidential business and personal information as required under the FIPPA; and
- The applicant's response to the submissions that were received on their application after redacting where necessary to protect confidential business and personal information as required under the FIPPA.

The Board will send copies of redacted documents outlined above for review to TNS applicants. After this step, the Board will send the redacted documents to submitters who will have the opportunity to provide any final submissions. A copy of final submission will be provided to TNS applicants.

Releasing information

The Board may have to release information. For example, a person may ask for access to business plan information under FIPPA. The Board would then review the information in the plan to determine what must be released.

The Board keeps the following types of information confidential:

- Private financial information (e.g. personal net worth statements)
- Private business details (e.g. customer account information)
- Information received in a criminal record check that is not public

The Board does not release this information unless it is required to do so by legislation, the court system, or due to a criminal investigation.

Records, information, and reports

The Board will provide applicants with copies of records, information, or reports it considers relevant to a proceeding, and will allow applicants to comment. The Board will advise participants if it intends to produce any records, information, or reports relevant to the proceeding, and the dates on which they will be provided to participants.

RPP 29.1 outlines this in relation to hearings, including pre-hearing conferences.

Legislation

The Act

6 (3) The following provisions of the Administrative Tribunals Act apply to the board: …

s) section 61 [application of Freedom of Information and Protection of Privacy Act].

12 (1) The board has the power to control its own process…

(4.1) The board may, on its own initiative, consider any records, information and reports that the board considers relevant to a proceeding.

(4.2) The records, information and reports referred to in subsection (4.1) include records, information and reports obtained or produced by or for the board.

FIPPA

21 (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 party, or

(ii) commercial, financial, labour relations, scientific or technical information of or about a third party,

(b) that is supplied, implicitly or explicitly, 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 party,

(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 a labour relations dispute.

ATA

61 (1) In this section, "decision maker" includes a tribunal member, adjudicator, registrar or other officer who makes a decision in an application or an interim or preliminary matter, or a person who conducts a facilitated settlement process.

(2) The Freedom of Information and Protection of Privacy Act, other than section 44 (1) (b), (2), (2.1) and (3), does not apply to any of the following:

a) a personal note, communication or draft decision of a decision maker;

b) notes or records kept by a person appointed by the tribunal to conduct a facilitated settlement process in relation to an application;

c) any information received by the tribunal in a hearing or part of a hearing from which the public, a party or an intervener was excluded;

d) a transcription or tape recording of a tribunal proceeding;

e) a document submitted in a hearing for which public access is provided by the tribunal;

f) a decision of the tribunal for which public access is provided by the tribunal.

(3) Subsection (2) does not apply to personal information, as defined in the Freedom of Information and Protection of Privacy Act, that has been in existence for 100 or more years or to other information that has been in existence for 50 or more years.