

DOC/2017/01054-03

April 3, 2017



Dear 

**Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* [Our File #: MA/24/2017]**

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On March 3, 2017, the Department of Municipal Affairs and Environment received your request for access to the following records/information:

*"PCSP Council Minutes: February 16, 2017-02-23*

*The following project updates were provided by the Town Manager/Engineer, Chris Milley:*

*Clean Water projects*

*The Town is working with the Department of Municipal Affairs on Cabinet paper submissions before a RFP can go before Cabinet for approval. A meeting regarding the approval process was postponed due to weather until early in the week of February 20, 2017. RFQ and RFI are other options being considered to expedite future RFP approval process.*

*REQUEST: Record/copy of any correspondence/documentation from MA to the Town and/or Town to MA on Cabinet Paper submission before a RFP can go before Cabinet for approval."*

I am pleased to inform you that a decision has been made by the Deputy Minister for the Department of Municipal Affairs and Environment to provide access to some of the requested information. In particular, access is granted to the following records:

Correspondence between the Town of Portugal Cove–St. Philips and the Department.

Access to the remaining records, and/or information contained within the records, has been refused in accordance with the following exceptions to disclosure, as specified in the *Access to Information and Protection of Privacy Act* (the Act):

27. (1) In this section, "cabinet record" means

(i) that portion of a record which contains information about the contents of a record within a class of information referred to in paragraphs (a) to (h).

(2) The head of a public body shall refuse to disclose to an applicant

(a) a cabinet record;

29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal

(a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

As required by 8(2) of the *Act*, we have severed information that is unable to be disclosed and have provided you with as much information as possible.

In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner  
2 Canada Drive  
P. O. Box 13004, Stn. A  
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 729-5846 or by e-mail at [aliaskary@gov.nl.ca](mailto:aliaskary@gov.nl.ca).

Sincerely,



Ali Askary  
Manager of Information Services / ATIPP Coordinator

Enclosures

## **Access or correction complaint**

42.(1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

## **Direct appeal to Trial Division by an applicant**

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).

## Askary, Ali

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**Subject:** FW: Tender Exemption PCSP water metering project

----- Forwarded Message -----

From: "Chris Milley" <[Chris.Milley@pcsp.ca](mailto:Chris.Milley@pcsp.ca)>

To: "Rehman, Inayat" <[InayatRehman@gov.nl.ca](mailto:InayatRehman@gov.nl.ca)>; "Yetman, Jill" <[JillYetman@gov.nl.ca](mailto:JillYetman@gov.nl.ca)>; "John Oliveira ([john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca))" <[john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)>; "AE LS" <[ashley@vigilantmanagement.ca](mailto:ashley@vigilantmanagement.ca)>

Cc: "Khan, Ehsan" <[EhsanKhan@gov.nl.ca](mailto:EhsanKhan@gov.nl.ca)>; "[john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)" <[john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)>; "Duffett, Ian" <[IanDuffett@gov.nl.ca](mailto:IanDuffett@gov.nl.ca)>; "Dewling, Dave G." <[dewlingd@gov.nl.ca](mailto:dewlingd@gov.nl.ca)>; "Fowler, Bertha" <[fowlerb@gov.nl.ca](mailto:fowlerb@gov.nl.ca)>

Sent: 2017-02-09 10:04:28 AM

Subject: RE: Tender Exemption PCSP water metering project

We designed the project around an RFP process and all documentation has been provided to DMA for several months with the same conversation occurring just a week ago.

I will get Vigilant to arrange something.

Chris

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**From:** Rehman, Inayat

**Sent:** Thursday, February 09, 2017 9:03 AM

**To:** 'Chris Milley'; Yetman, Jill; 'John Oliveira ([john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca))'; 'AE LS'

**Cc:** Khan, Ehsan; '[john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)'; Duffett, Ian; Dewling, Dave G.; Fowler, Bertha

**Subject:** RE: Tender Exemption PCSP water metering project

Chris,

On a deeper look into the nature of this project, it seems like a simple supply and install of an off the shelf water meter project. We need clarity on why are we going for a design build method in this case?

To avoid delays and keep the project's momentum moving forward, [REDACTED]

s. 29(1)(a)

Please let me know when are you and your consultant available to discuss this matter?

Thanks

Inayat Rehman

Eastern Regional Engineer

Department of Municipal Affairs

Government of Newfoundland & Labrador

St John's, NL

Ph: 709 729 5337

Cell: 709 727 3187



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**From:** Rehman, Inayat

**Sent:** Wednesday, February 08, 2017 2:59 PM

**To:** 'Chris Milley'; Yetman, Jill; John Oliveira ([john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)); AE LS

**Cc:** Khan, Ehsan; 'john@vigilantmanagement.ca'; Duffett, Ian; Dewling, Dave G.; Fowler, Bertha  
**Subject:** RE: Tender Exemption PCSP water metering project

Chris,

In this particular case, the requirements for this project are very clear and uncomplicated, and we believe that spending extra time and resources on an additional step of RFQ would not be a wise approach.

Also, an RFQ is a qualification process in which we evaluate each proponent against the owner's statement of requirements, and not against each other. We cannot use the information from the RFQ to feed the RFP as we would be exposing one vendor's uniqueness to other competitors and that is not a fair and unbiased business practice.

Now, as we agreed to follow the design-build RFP approach for this project, [REDACTED]

s. 29(1)(a)

If you want, we can have a meeting to discuss these aspects in further detail.

Thanks

**Inayat Rehman**

P. Eng; M.Eng; M.Sc (HON) Rural Development

Eastern Regional Engineer

Department of Municipal Affairs

Government of Newfoundland & Labrador

St John's, NL

Ph: 709 729 5337

Cell: 709 727 3187



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**From:** Chris Milley [<mailto:Chris.Milley@pcsp.ca>]

**Sent:** Tuesday, February 07, 2017 4:04 PM

**To:** Rehman, Inayat; Yetman, Jill; John Oliveira ([john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)); AE LS

**Cc:** Khan, Ehsan; 'john@vigilantmanagement.ca'; Duffett, Ian; Dewling, Dave G.; Fowler, Bertha

**Subject:** RE: Tender Exemption PCSP water metering project

Hello Inayat,

We will find value in an RFQ if we go that route. I think we can get a lot of information that could feed the RFP process. The only reason we are proposing an RFQ is so that we can keep the project's momentum moving forward [REDACTED]

Thanks

s. 29(1)(a)

Chris



**Chris Milley, P.Eng.**  
Town Manager/Engineer

1119 Thorburn Road  
Portugal Cove-St. Philip's  
A1M 1T6  
T: 709.895.8000 ext. 262  
F: 709.895.3780

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**From:** Rehman, Inayat [<mailto:InayatRehman@gov.nl.ca>]  
**Sent:** February-07-17 2:22 PM  
**To:** Chris Milley <[Chris.Milley@pcsp.ca](mailto:Chris.Milley@pcsp.ca)>; Yetman, Jill <[JillYetman@gov.nl.ca](mailto:JillYetman@gov.nl.ca)>; John Oliveira ([john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)) <[john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)>; AE LS <[ashley@vigilantmanagement.ca](mailto:ashley@vigilantmanagement.ca)>  
**Cc:** Khan, Ehsan <[EhsanKhan@gov.nl.ca](mailto:EhsanKhan@gov.nl.ca)>; 'john@vigilantmanagement.ca' <[john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)>; Duffett, Ian <[IanDuffett@gov.nl.ca](mailto:IanDuffett@gov.nl.ca)>; Dewling, Dave G. <[dewlingd@gov.nl.ca](mailto:dewlingd@gov.nl.ca)>; Fowler, Bertha <[fowlerb@gov.nl.ca](mailto:fowlerb@gov.nl.ca)>  
**Subject:** RE: Tender Exemption PCSP water metering project

Thank you Chris for your prompt and detailed response.

On another thread, John was asking Jill about our position on an RFQ for this project. I assume, Vigilant prefers the same approach as is envisioned for the Sludge Dewatering project.

We, here in the Department, don't think that both projects are of the same nature. We are of the opinion that there's no need for an RFQ unless we are convinced that an RFQ will add any significant value to the efficient and effective delivery and implementation of this project.

Thanks

s.27(1)(i), s.27(2)(a)

**Inayat Rehman**

P. Eng; M.Eng; M.Sc (HON) Rural Development

Eastern Regional Engineer  
Department of Municipal Affairs  
Government of Newfoundland & Labrador  
St John's, NL

Ph: 709 729 5337  
Cell: 709 727 3187



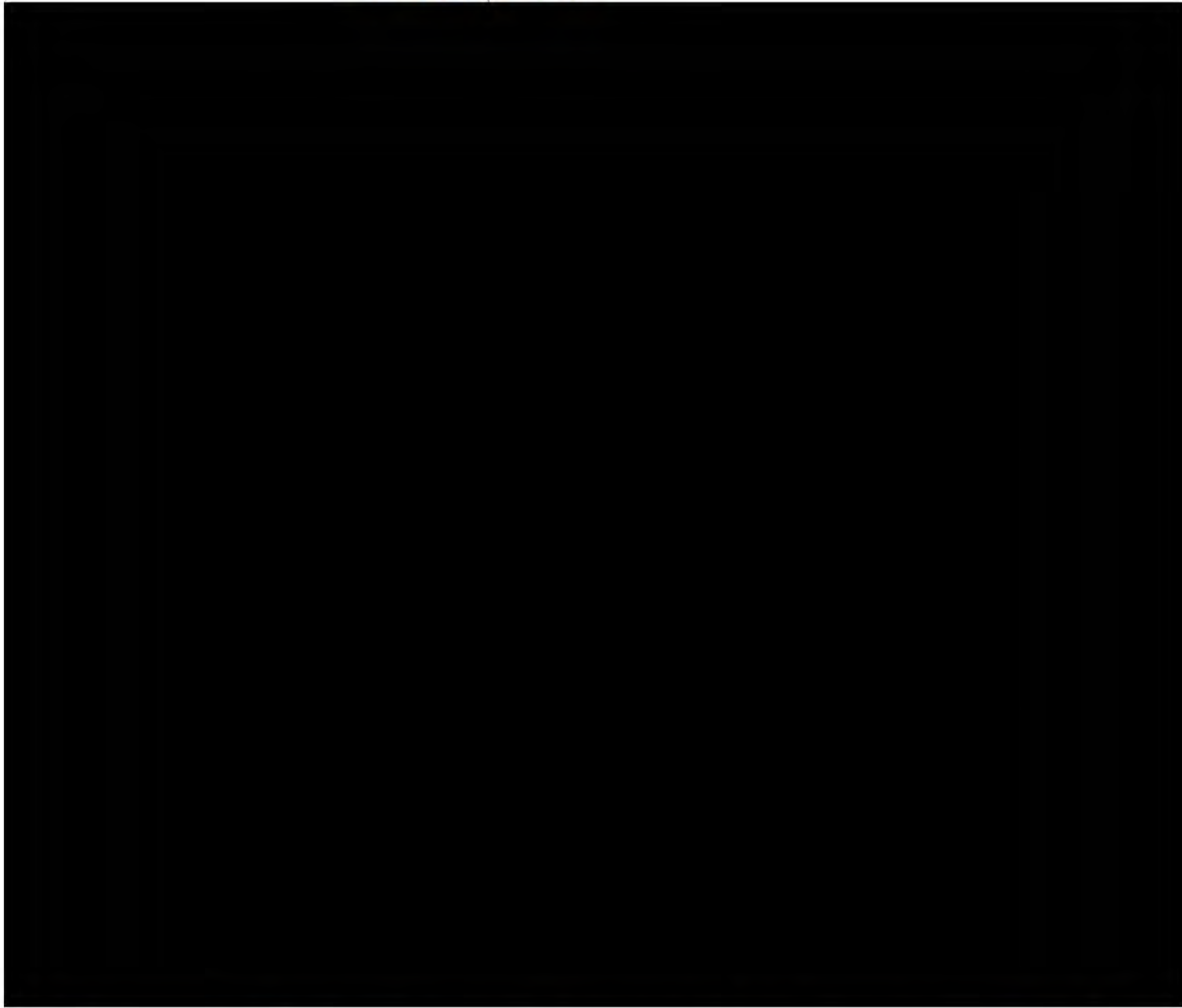
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**From:** Chris Milley [<mailto:Chris.Milley@pcsp.ca>]  
**Sent:** Tuesday, February 07, 2017 1:31 PM  
**To:** Yetman, Jill; John Oliveira ([john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)); AE LS  
**Cc:** Khan, Ehsan; Duffett, Ian; Rehman, Inayat  
**Subject:** RE: Tender Exemption PCSP water metering project

Hello Jill,

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I would recommend that the documentation on our website is reviewed. It shows that metering is a good thing for the community and the environment by being the means to drive conservation, a means to manage an expensive service with due diligence, and fairly distribute the costs of service.

We recognize that by nature people are afraid of and question change. A significant amount of effort in this project and also the proposal evaluation is dedicated to public engagement, education, and relation solutions being proposed to help residents adjust to the change.

If you need anything else, please let me know, I will try to direct you to the appropriate answers.

Thanks,

Chris





**Chris Milley, P.Eng.**  
Town Manager/Engineer

1119 Thorburn Road  
Portugal Cove-St. Philip's  
A1M 1T6  
T: 709.895.8000 ext. 262  
F: 709.895.3780

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**From:** Yetman, Jill [<mailto:JillYetman@gov.nl.ca>]  
**Sent:** February-07-17 10:26 AM  
**To:** John Oliveira ([john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)) <[john@vigilantmanagement.ca](mailto:john@vigilantmanagement.ca)>; Chris Milley <[Chris.Milley@pcsp.ca](mailto:Chris.Milley@pcsp.ca)>;  
AE LS <[ashley@vigilantmanagement.ca](mailto:ashley@vigilantmanagement.ca)>  
**Cc:** Khan, Ehsan <[EhsanKhan@gov.nl.ca](mailto:EhsanKhan@gov.nl.ca)>; Duffett, Ian <[IanDuffett@gov.nl.ca](mailto:IanDuffett@gov.nl.ca)>; Rehman, Inayat  
<[InayatRehman@gov.nl.ca](mailto:InayatRehman@gov.nl.ca)>  
**Subject:** Tender Exemption PCSP water metering project

Good Morning,



Thank you for your timely attention to this matter.  
Jill

s.27(1)(i), s.27(2)(a)

**Jill Yetman**, B.Tech  
Design Approval Technician II

Dept. of Municipal Affairs  
Eastern Regional Office  
1<sup>st</sup> Fl. - West Block, Confederation Building  
PO Box 8700  
St. John's, NL A1B 4J6

Phone: 709.729.5233  
Fax: 709.729.7491  
Email: [jillyetman@gov.nl.ca](mailto:jillyetman@gov.nl.ca)



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