

COR/2017/01634

April 25, 2017 s. 40 (1)



Dear [REDACTED] s. 40 (1)

**Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (Our File: TW/036/2017)**

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On February 17, 2017, the Department of Transportation and Works received your request for access to the following records:

*On February 17, 2017 government released an EY report on the Value for Money Assessment of the proposed Corner Brook Acute Care Hospital Project. We are requesting any and all appendices and details which would have accompanied the full report, as well as relevant background material that was not provided with this summary report. The documentation should include, but not be limited to: ??? The summary report notes the first step of the assessment "was to consider the spectrum of alternative procurement delivery methods for the Corner Brook Hospital Project and screen these procurement options using criteria aligned to the goals and objectives of the Corner Brook Hospital (italics added) in order to determine a short-list on which to run more detailed quantitative analysis and investigation. Please provide documentation outlining those criteria and a detailed explanation of the goals and objectives. ??? Details concerning the "weighting" process -- how were values assigned, criteria for weighting, various scores awarded etc.? ??? Notes, minutes, reports and all other documentation from the August 31, 2016 and the September 1, 2016 EY facilitated workshop, including discussion regarding the development of the key procurement options which could be used for the Corner Brook Hospital Project. ??? Any discussion, notes reports and other documentation regarding the qualitative criteria used to assess each procurement option in order to determine which option most closely meet the strategy and objectives of the GNL. ??? A list of the strategy and options of the GNL ??? Details, including minutes and notes, on the weighing of each of the evaluation criteria which reflected their relative importance. ??? Details on the multi-criteria analysis involving how this analysis is applied, how the scoring is designed, what the scoring entailed, and other information on this particular exercise. What were the definitions of what was required to "fit" and be*

*able to achieve the evaluation criteria? ??? All information outlining Canadian best practice for the evaluation of alternative service delivery including who sets this best practice, and who developed the best practices. ??? Details on how the Department of Transportation and Works would "typically" procure such a project. ??? Copies of the detailed quantitative analysis of the comparison between the design build option and design build finance maintain option, including the key assumptions underlining the analysis including project costs, assessment of project risks and financial and economic assessments, and other such considerations which would have been included in the "etc." at the end of this line of the report. ??? Details on the financial models for the procurement options determining their net present value. ??? Details including methodology and practice on how the results were adjusted for the differences in the value of risks maintained in each option. ??? A copy of the detailed risk analysis for the procurement options. ??? Minutes of the Risk Workshop facilitated by EY on 20-22 September 2016. ??? All details on the stochastic analysis on the risk register developed at the Risk Workshop, as well as details on how the appropriate risk adjustment was applied to the procurement options. ??? Details which led to the decision that the design build finance maintain option would provide better value for money, reducing the net present value by 7 per cent. ??? Details on the sensitivity analysis of key variables, including a detailed definition of what are the key variables. ??? Details on what is the definition of "realistic changes in these key variables" as used in this analysis. How much was EY paid for this work -- consultations, workshops and reports.*

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

- Risk Workshops – 20<sup>th</sup> – 22<sup>nd</sup> September 2016.
- Hospital/LTC projects – Multi Criteria Analysis Workshop.
- Market Sounding Information Brief.
- Evaluation Criteria and Procurement Options.
- Agenda – Workshop.

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*):

- *Subsection 27(1)(a) - In this section, "cabinet record" means advice, recommendations or policy considerations submitted or prepared for submission to the Cabinet.*
- *Subsection 27(2)(a) - The head of a public body shall refuse to disclose to an applicant a cabinet record.*
- *Subsection 35(1)(d) - The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure*

*of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party.*

- *Subsection 35(1)(f) - The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the government of the province or a public body, or considerations which relate to those negotiations.*
- *Subsection 35(1)(g) - The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body.*
- *Subsection 40(1) - The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.*

The following pages have been removed:

- Pages 2 – 35: s. 35(1)(d), s. 35(1)(f), and s. 35(1)(g).
- Pages 37 – 40: s. 35(1)(d), s. 35(1)(f), and s. 35(1)(g).
- Pages 42 – 45: s. 35(1)(d), s. 35(1)(f), and s. 35(1)(g).
- Pages 47 – 48: s. 35(1)(d), s. 35(1)(f), and s. 35(1)(g).
- Pages 68 – 96: s. 35(1)(f).
- Pages 123-126 as non-responsive.
- Pages 135 – 152: s. 27(1)(a), and s. 27(2)(a).
- Pages 153 – 155: s. 27(1)(a), and s. 27(2)(a).
- Pages 156 – 212: s. 35(1)(d), s. 35(1)(f), and s. 35(1)(g).
- Pages 213 – 237: s. 35(1)(d), s. 35(1)(f), and s. 35(1)(g).

The Government of Newfoundland and Labrador have announced the new Long-Term Care Home for Corner Brook and the new Acute Care Regional Hospital for Western Newfoundland. Included in these announcements are summaries of the value for money assessments for these projects, which have been released publically and are available online at the following links:

- <http://www.releases.gov.nl.ca/releases/2017/exec/0120n02.aspx>
- <http://www.releases.gov.nl.ca/releases/2017/exec/0217n01.aspx>

These assessments outline the information used to determine the best procurement approach to take, including the evaluation criteria. The Government of Newfoundland and Labrador has committed to providing the full results of the value for money assessments when a successful

proponent has been identified. This is consistent with practices in other jurisdictions so as not to influence bids from potential proponents.

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 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 contact me by telephone at 729-5303 or by email at MichaelCook@gov.nl.ca.

Sincerely,



ATIPP Coordinator

Department of Transportation and Works

Enclosures

## Cabinet confidences

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

- (a) advice, recommendations or policy considerations submitted or prepared for submission to the Cabinet;
- (b) draft legislation or regulations submitted or prepared for submission to the Cabinet;
- (c) a memorandum, the purpose of which is to present proposals or recommendations to the Cabinet;
- (d) a discussion paper, policy analysis, proposal, advice or briefing material prepared for Cabinet, excluding the sections of these records that are factual or background material;
- (e) an agenda, minute or other record of Cabinet recording deliberations or decisions of the Cabinet;
- (f) a record used for or which reflects communications or discussions among ministers on matters relating to the making of government decisions or the formulation of government policy;
- (g) a record created for or by a minister for the purpose of briefing that minister on a matter for the Cabinet;
- (h) a record created during the process of developing or preparing a submission for the Cabinet; and
- (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; or
- (b) information in a record other than a cabinet record that would reveal the substance of deliberations of Cabinet.

(3) Notwithstanding subsection (2), the Clerk of the Executive Council may disclose a cabinet record or information that would reveal the substance of deliberations of Cabinet where the Clerk is satisfied that the public interest in the disclosure of the information outweighs the reason for the exception.

(4) Subsections (1) and (2) do not apply to

- (a) information in a record that has been in existence for 20 years or more; or
- (b) information in a record of a decision made by the Cabinet on an appeal under an Act.



**Disclosure harmful to the financial or economic interests of a public body**

**35.** (1) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose

- (a) trade secrets of a public body or the government of the province;
- (b) financial, commercial, scientific or technical information that belongs to a public body or to the government of the province and that has, or is reasonably likely to have, monetary value;
- (c) plans that relate to the management of personnel of or the administration of a public body and that have not yet been implemented or made public;
- (d) information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party;
- (e) scientific or technical information obtained through research by an employee of a public body, the disclosure of which could reasonably be expected to deprive the employee of priority of publication;
- (f) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the government of the province or a public body, or considerations which relate to those negotiations;
- (g) information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body; or
- (h) information, the disclosure of which could reasonably be expected to be injurious to the ability of the government of the province to manage the economy of the province.

(2) The head of a public body shall not refuse to disclose under subsection (1) the results of product or environmental testing carried out by or for that public body, unless the testing was done

- (a) for a fee as a service to a person or a group of persons other than the public body; or
- (b) for the purpose of developing methods of testing.

### **Disclosure harmful to personal privacy**

**40.** (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy where

- (a) the applicant is the individual to whom the information relates;
- (b) the third party to whom the information relates has, in writing, consented to or requested the disclosure;
- (c) there are compelling circumstances affecting a person's health or safety and notice of disclosure is given in the form appropriate in the circumstances to the third party to whom the information relates;
- (d) an Act or regulation of the province or of Canada authorizes the disclosure;
- (e) the disclosure is for a research or statistical purpose and is in accordance with section 70;
- (f) the information is about a third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff;
- (g) the disclosure reveals financial and other details of a contract to supply goods or services to a public body;
- (h) the disclosure reveals the opinions or views of a third party given in the course of performing services for a public body, except where they are given in respect of another individual;
- (i) public access to the information is provided under the *Financial Administration Act* ;
- (j) the information is about expenses incurred by a third party while travelling at the expense of a public body;
- (k) the disclosure reveals details of a licence, permit or a similar discretionary benefit granted to a third party by a public body, not including personal information supplied in support of the application for the benefit;
- (l) the disclosure reveals details of a discretionary benefit of a financial nature granted to a third party by a public body, not including
  - (i) personal information that is supplied in support of the application for the benefit, or



- (ii) personal information that relates to eligibility for income and employment support under the *Income and Employment Support Act* or to the determination of income or employment support levels; or
- (m) the disclosure is not contrary to the public interest as described in subsection (3) and reveals only the following personal information about a third party:
  - (i) attendance at or participation in a public event or activity related to a public body, including a graduation ceremony, sporting event, cultural program or club, or field trip, or
  - (ii) receipt of an honour or award granted by or through a public body.

(3) The disclosure of personal information under paragraph (2)(m) is an unreasonable invasion of personal privacy where the third party whom the information is about has requested that the information not be disclosed.

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where

- (a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
- (b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation;
- (c) the personal information relates to employment or educational history;
- (d) the personal information was collected on a tax return or gathered for the purpose of collecting a tax;
- (e) the personal information consists of an individual's bank account information or credit card information;
- (f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;
- (g) the personal information consists of the third party's name where
  - (i) it appears with other personal information about the third party, or
  - (ii) the disclosure of the name itself would reveal personal information about the third party; or
- (h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.

(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether

- (a) the disclosure is desirable for the purpose of subjecting the activities of the province or a public body to public scrutiny;
- (b) the disclosure is likely to promote public health and safety or the protection of the environment;
- (c) the personal information is relevant to a fair determination of the applicant's rights;
- (d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people;
- (e) the third party will be exposed unfairly to financial or other harm;
- (f) the personal information has been supplied in confidence;
- (g) the personal information is likely to be inaccurate or unreliable;
- (h) the disclosure may unfairly damage the reputation of a person referred to in the record requested by the applicant;
- (i) the personal information was originally provided to the applicant; and
- (j) the information is about a deceased person and, if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person's personal privacy.

### **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).

s. 40(1)

**Forward, Steven L**

---

**From:** [Redacted]@ca.ey.com>  
**Sent:** Monday, November 14, 2016 2:51 PM  
**To:** Grandy, Cory; Forward, Steven L  
**Cc:** [Redacted]  
**Subject:** Draft Strategy report  
**Attachments:** Strategy Report\_draft.pdf

s. 40(1)

Hi Cory

Attached is the Draft Strategy report for your review. If you have any queries or comments please do not hesitate to let us know. Once you are happy we will issue in final.

Best regards

[Redacted] s. 40(1)

s. 40(1)

[Redacted] Infrastructure Advisory



Ernst & Young Orenda Corporate Finance Inc.  
RBC Waterside Centre, 1871 Hollis Street, Suite 500, Halifax, NS B3J 3C0 , Canada

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s. 40(1)

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**Forward, Steven L**

s. 40(1)

**From:** [Redacted]@ca.ey.com>  
**Sent:** Friday, October 14, 2016 6:08 PM  
**To:** s. 40(1) Grandy, Cory; Forward, Steven L  
**Cc:** [Redacted]  
**Subject:** GRI report extract  
**Attachments:** GRI Wave 2\_Program Status Report 12 October 2016\_extract.pdf

Hi Cory s. 27(1)(a) s.27(2)(a)

[Redacted]

No issues are noted. If you have any questions or concerns please do not hesitate to let me know.

Have a great weekend

[Redacted] s. 40(1)

s. 40(1)



[Redacted] Infrastructure Advisory

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**Forward, Steven L**

s. 40(1)

**From:** [REDACTED]@ca.ey.com>  
**Sent:** Thursday, October 06, 2016 6:39 PM  
**To:** Forward, Steven L; Grandy, Cory s. 40(1)  
**Cc:** [REDACTED]  
**Subject:** Hospital and LTC Infrastructure procurement options update  
**Attachments:** GRI Wave 2\_Program Status Report extract\_30 Sep 16.pptx

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

Hi Cory and Steve

Attached are the slides relating to the Hospital and LTC procurement options analysis which we are working on with you. This update slides are to the end of last week. Although we gave you a more detailed status update on the project during our call yesterday we thought you may want be interested in receiving these slides too.

If you have any comments or queries please do not hesitate to let me know.

Best regards

s. 40(1)

s. 40(1)



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**Forward, Steven L**

s. 40(1)

**From:** [REDACTED]@ca.ey.com>  
**Sent:** Friday, September 23, 2016 3:45 PM  
**To:** s. 40(1) Grandy, Cory; Forward, Steven L  
**Cc:** [REDACTED]  
**Subject:** Market Sounding overview  
**Attachments:** Market sounding summary.pdf; Calgary Cancer Care Market Sounding Brief.pdf

Hi Cory and Steve

As requested yesterday, please find attached a short paper which gives a brief overview of the Market Sounding process which you could use for your internal clearances.

I am also attaching, as an example, a copy of the Information Brief sent to confirmed participants ahead of a recent market sounding exercise which we ran for the Calgary Cancer Project. You can see that the questions are highly tailored to the specific circumstances of the project but it should give you and your colleagues some insight into the types of questions we would typically go into.

If you have any comments or would like to discuss any aspect further please do not hesitate to let me know.

Best regards

s. 40(1)

s. 40(1)

[REDACTED] Infrastructure Advisory



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s. 40(1)

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## Agenda

### Waterford Hospital, Corner Brook Hospital and Long-term Care Projects Workshop

Date: 31 August – 1 September 2016

Location: Confederation Building, West Block

#### Wednesday 31<sup>st</sup> August 2016

- Status of SOW / Overview of EY Services and timetable
- Scope discussions
  - Project Scope Definition
    - Waterford Project
    - Corner Brook Project
    - Long Term Care Project
  - Scope of services to consider
- Multi Criteria Analysis (See attached presentation)
- Discuss background information
  - Information provided to date
  - Further information available / required
- Turner & Townsend sub-contract
- Next steps and close

#### Thursday 1<sup>st</sup> September 2016

- Complete Multi Criteria Analysis etc (as required)
- EY analysis

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