

Response to Applicant – Access Refused

November 7, 2019

[Redacted] Section 40(1)

Dear [Redacted]: Section 40(1)

**Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* [Our File #: HRS-57-2019]**

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This is to confirm that on November 5, 2019 the Human Resource Secretariat (HRS) received your access to information request for the following information:

*"I wish to obtain all records pertaining to competition FLR.19.20.R0071 (Manager of Information Services) in particular a list of candidates who were screened in and out of this competition and the ranking criteria."*

For job competition FLR.19.20.R0071 (Manager of Information Services), 11 applications were received of which, eight were screened out and three were screened in. The screening and assessment criteria is listed on the job posting included. [Redacted]

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):

*Section 32(a): The head of the public body may refuse to disclose to an applicant personal information that is evaluative or opinion material, provided explicitly or implicitly in confidence, and compiled for the purpose of determining suitability, eligibility or qualifications for employment or for the awarding of contracts or other benefits by a public body.*

*Section 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 *Access to Information and Protection of Privacy Act* requires us to provide an advisory response within 10 days of receiving the request. As this request has been completed prior to day 10, this letter also serves as our Advisory Response.

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. 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 (709) 729-6158 or by e-mail at [kimberlyryan@gov.nl.ca](mailto:kimberlyryan@gov.nl.ca).

Sincerely,



Kimberly Ryan  
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).

# Human Resource Secretariat : Online Job Portal

## Internal Employment Opportunity

### Manager of Information Services

#### Competition Details

<b>Referral Number</b>	FLR.19.20.R0071
<b>Employment type</b>	1 Permanent Position
<b>Division</b>	Policy and Planning Division
<b>Position Group</b>	Management
<b>Department</b>	Department of Fisheries and Land Resources
<b>Location</b>	St. John's
<b>Closing Date</b>	9 Aug 2019
<b>Salary (scale)</b>	HL-21 (\$65,786 - \$85,522)
<b>Benefits</b>	<a href="#">Onboarding</a>

#### Position Details (What is this?)

<b>Context</b>	The Department of Fisheries and Land Resources promotes the development of the Province's fishing and aquaculture industries to ensure an economically viable, internationally competitive, and ecologically sustainable fishery. The Department also develops the policies and programs to support the forestry, including management of forest resources and continued development of competitive and sustainable primary and value-added agriculture and agrifoods industry. The department is also responsible for fish and wildlife enforcement and manages wildlife resources and the associated ecological, economic and social benefits in addition to the protection and preservation of species at risk. Additionally, the Department also manages and allocates provincial Crown lands in a responsible manner for the continuous social and economic benefit for residents of Newfoundland and Labrador.
<b>Duties</b>	The Manager of Information Management, is responsible for planning, developing and managing the records and information management (IM) program for the Department of Fisheries and Land Resources (FLR) and responsible for the strategic management of all aspects of compliance with the <i>Access to Information and Protection of Privacy Act, 2015</i> (ATIPPA, 2015). This responsibility includes strategic planning for procedures to support both automated (electronic) and manual (paper-based) information processes. The management of human, fiscal and other resources assigned to the IM program; development and monitoring of security, access, vital records and disaster/contingency records programs for FLR; selection, development, implementation and management of appropriate technology systems (e.g. databases) to support IM functions; the development and delivery of IM training for FLR; represents FLR on IM forums in government and externally and provides advice and consultation to other departments in relation to development and implementation of new and improved information management systems. The incumbent actively participates in the development and rollout of policy related to information management initiatives within FLR and government wide; and liaises with the Provincial Archives in matters relating to records and information management. Including identification of future IM needs across government, with such initiative often resulting in joint projects between the Provincial Archives and the Manager of Information Services. The Manager is responsible for ensuring that all government-wide policies, standards and procedures are implemented at FLR; in collaboration with the Office of the Chief Information Officer (OCIO) and Centre for Learning and Development (CLD). This position is responsible for providing expert advice to the Deputy Minister regarding compliance with the act; addressing all requests for access to information in accordance with legislated deadlines; and meeting all legislated protection of privacy requirements. The position performs regular compliance audits to ensure mandatory privacy training is completed by each of the Department's 879 staff; tracks all privacy breaches to ascertain trends and if further remediate action is required in specific circumstances; and, prepares and delivers case specific remediate courses of action to reduce further instances of privacy breaches. In addition, this position provides policy

support in writing policy documents, briefing notes and advice to the Director of Policy and Planning regarding all aspects of information management including the facilitation of investigations by the Office of the Citizens' Representative under the *Citizens' Representative Act*.

## Merit Criteria (What is this?)

### Screening Criteria

1. Post secondary education in Information Management or a related discipline (equivalencies will be considered)
2. Experience processing ATIPP requests
3. Policy development experience
4. Experience supervising employees
5. Experience with Electronic Document and Records Management Systems
6. Experience writing executive correspondence (briefing notes/cabinet papers)
7. TRIM Administrator Certification (asset)

### Assessment Criteria

1. Knowledge of IM frameworks, processes, applications, and systems
2. Knowledge of policy development
3. Knowledge of Electronic Document and Records Management Systems
4. Knowledge of HP Records Manager and/or TRIM (asset)
5. Knowledge of ATIPP Process
6. Ability to manage time and tasks
7. Ability to think critically
8. Ability to communicate effectively (verbal)
9. Ability to communicate effectively (written)
10. Ability to lead others
11. Professionalism

## Conditions of Employment (What is this?)

### Conditions of Acceptance

**Applicant Information** For more information about this opportunity please call 729-1364

- The Government of Newfoundland and Labrador values diversity in the work place and is an equal opportunity employer.
- Disability related accommodations and alternate formats are available upon request at any stage of the recruitment process by contacting [recruitment@gov.nl.ca](mailto:recruitment@gov.nl.ca), 709-729-0130 or toll free at 1-888-729-7690.
- Preference will be given to applicants who are legally entitled to work in Canada.
- Applications must be received on or before the closing date stated for this job posting.
- It is the responsibility of the applicant to submit an application that demonstrates the required merit criteria.
- Applications that do not clearly demonstrate the required criteria will be screened-out.
- All applications must contain accurate contact information, including current mailing address, email address and phone number.
- All information submitted as part of this application must be factual, complete and current to date of submission.
- This competition may be used to fill future similar vacancies with the Government of Newfoundland and Labrador.

## How To Apply

Applications, quoting Competition Number FLR.19.20.R0071, should be submitted

### Online

[Apply Now](#)

[Print This Ad](#)

### By Mail

Human Resource Secretariat, Strategic Staffing Division  
50 Mundy Pond Road  
P.O. Box 8700  
St. John's, NL, A1B 4J6

### By Fax

(709) 729-6737

For more information about this opportunity please call 729-1364

This competition is open to **employees of the Public Service** including those on lay-off status, but does not include students.

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