



Records Management Bulletin

Records management advice prepared for GNWT employees
by the Records Management Unit of Public Works and Services

No. 28 – May 2004

Access to Information and Protection of Privacy Act

What is the Access to Information and Protection of Privacy Act?

In 1996, the Legislative Assembly of the Northwest Territories passed the **Access to Information and Protection of Privacy Act** (ATIPP Act). The Act shows the government's commitment to open, accessible and accountable government.

The ATIPP Act gives individuals a legal right to request access to information held by Northwest Territories public bodies.¹ Information may only be withheld if it falls under one of the limited and specific exceptions set out in the Act. The Act also gives individuals the right to request corrections to information the government has about them.

The principals behind the ATIPP Act are accountability and protection of privacy. The Act gives the public the right to access government records. It also prohibits the unauthorised collection, use or disclosure of personal information

The Act is divided into two parts:

- **Part One** deals with Access to Information.
- **Part Two** deals with Protection of Privacy.

Finally, the Act establishes the **Office of the Information and Privacy Commissioner**. The Information and Privacy Commissioner provides an independent review of decisions made by public bodies regarding access to information. As of April 1, 2004, the Information and Privacy Commissioner may also review requests by individuals to look into whether or not a public body has collected, used, or disclosed the individual's personal information in contravention of the Act.

What does this have to do with Records Management?

The ATIPP Act is one of two Acts that directly address records. The other is the **Archives Act**. The Archives Act gives direction on the retention and disposition of records. The ATIPP Act, on the other hand, affects how public bodies keep and use records.

First of all, the ATIPP Act defines a record:

“record” means a record of information in any form that is written, photographed, recorded or stored in any manner, but does not include a computer program or other mechanism that produces records.

¹ A public body is a government department, agency, board, commission, or Crown corporation. The **Access to Information and Protection of Privacy Regulations** contains a complete listing of the agencies that are subject to the Act.

Second, the ATIPP Act puts some rules around the creation, use and disposition of records:

- It limits a public body's ability to collect personal information about individuals.
- It sets limits on how public bodies may use personal information.
- It sets specific limits on what personal information a public body may disclose.
- It addresses exactly what personal information may be disclosed and for what purpose.

What types of records are subject to the Act?

The Act applies to all records that are held by a public body. It applies to paper records, electronic records, and records in any other medium. It even covers records that belong to a public body but are not being stored in its facilities, such as documents created by a private company under contract to the government.

What type of records can someone request access to?

Anyone can ask for any document that is held by a public body. This does not mean that everything will be released. It does mean that there are no limits on what may be requested. It is important to remember that the Act complements other procedures for obtaining government information. The ATIPP Act is intended to be used as a last resort, and does not limit or replace existing procedures for access to government information or records.

Can a public body deny access to records requested by an applicant?

Although the Act gives the public a right to request information held by a public body, exceptions to disclosure may exist. For example, the Act protects third parties (an individual, group of individuals or company), by prohibiting disclosure that would invade a third party's personal privacy or harms the business interests of a third party.

The public body reviews each record requested under the Act. It considers whether or not the information requested may be withheld under one of the limited and specific exceptions set out in the Act. The public body also considers if disclosure is an unreasonable invasion of a third party's personal information or the business interests of a third party. If the public body does not consider a risk of harm to exist, it must notify both the applicant and the third party(s) of its decision to release the information. The public body is required to inform both the applicant and the third party of their right to request a review with the Information and Privacy Commissioner regarding the public body's decision regarding disclosure.

Where can I get help if I need it?

Every public body has appointed an Access and Privacy Coordinator or Contact. This person receives Access to Information requests and directs the department's response to the request. Call your Access and Privacy Coordinator or Contact to learn more about the Act.

This bulletin was prepared with assistance from the Department of Justice.



**For more information, see the
Department of Justice website:**
www.justice.gov.nt.ca/ATIPP/atipp.htm

For more information, contact your department's records coordinator, or contact the Records Management Unit at 920-3009 or 873-7446