



Order F26-16

METRO VANCOUVER REGIONAL DISTRICT

Rene Kimmett
Adjudicator

March 9, 2026

CanLII Cite: 2026 BCIPC 20
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Summary: Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), a third-party company asked for a review of the Metro Vancouver Regional District's (Metro Vancouver) decision to give an applicant access to information in a contract executed by the third-party company and Metro Vancouver. The adjudicator found that s. 21(1) did not apply and ordered Metro Vancouver to give the applicant access to the information in dispute.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165, ss. 21(1)(a) and 21(1)(b).

INTRODUCTION

[1] This order is the result of a third-party request for review.¹

[2] Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an applicant asked the Metro Vancouver Regional District (Metro Vancouver) for access to the executed Solid Waste Contingency Disposal Services Contracts awarded to three companies, one of which was GFL Environmental Inc. (GFL). I will refer to the contract awarded to GFL as "the Contract".

[3] Under s. 23 of FIPPA, Metro Vancouver notified GFL of the access request and sought GFL's views on disclosure. GFL informed Metro Vancouver that it believes some of the information in the Contract should be withheld under s. 21(1) (harm to third-party business interests). Metro Vancouver disagreed and,

¹ A third party is any person, group of persons or organization other than the person who made the access request or a public body. FIPPA, Schedule 1, "third party".

under s. 24, notified GFL that it had decided to disclose the Contract to the applicant.

[4] GFL asked the Office of the Information and Privacy Commissioner (OIPC) to review Metro Vancouver’s decision to disclose the Contract. The OIPC engaged the parties in mediation, but it did not resolve the issues in dispute, and the matter proceeded to this inquiry. Only GFL provided a submission in this inquiry. Metro Vancouver and the applicant chose not to participate.

ISSUE AND BURDEN OF PROOF

[5] In this inquiry, I must decide whether Metro Vancouver is required to refuse to disclose the information in the Contract under s. 21(1).

[6] GFL has the burden of proving that the applicant has no right of access to the information it believes Metro Vancouver is required to withhold under s. 21(1).²

DISCUSSION

Background

[7] In 2022, Metro Vancouver put out a request for proposal for municipal solid waste contingency disposal services. In 2023, GFL and two other companies were successful in the bidding process and were awarded contracts.

Record at issue

[8] The only record at issue is a document GFL calls the “Schedule of Fees”, which consists of two pages from the Contract³ and discusses pricing and commercial considerations. GFL’s position is that Metro Vancouver is required to withhold the majority of the information in the Schedule of Fees.

Section 21(1) – harm to third-party business interests

[9] Section 21(1) requires a public body to withhold information if its disclosure could reasonably be expected to harm the business interests of a third party. The following parts of s. 21(1) are engaged in this case:

21(1) The head of a public body must refuse to disclose to an applicant information

(a) that would reveal

² FIPPA, s. 57(3)(b).

³ Metro Vancouver’s records package at PDF page 9.

- (i) [...]
 - (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 undue financial loss or gain to any person or organization, or
...⁴

[10] GFL submits that the Schedule of Fees contains its commercial information, including information relating to the specifications of GFL's products and services.⁵ Past OIPC orders have said that "commercial information" is information that relates to commerce, or the buying, selling, exchanging or providing of goods and services. These orders also make clear "commercial information" does not need to be proprietary in nature or have an independent monetary or marketable value.⁶ I find that the information in the Schedule of Fees is commercial information of or about GFL because it relates to GFL's pricing and delivery of services.

[11] The next questions are whether the information was supplied and, if it was supplied, whether it was supplied in confidence. Past OIPC orders have consistently held that information in a contract is not supplied and instead is negotiated.⁷ However, there are two exceptions to this general rule. Information in a contract may qualify as supplied if:

1. the information is relatively immutable or not susceptible to alteration during negotiation, and it was incorporated into the agreement unchanged; or
2. the information would allow an accurate inference about underlying confidential information the third party "supplied" that is not expressly contained in the

⁴ The section 21(1) framework requires the party with the burden of proof to establish all three parts of the test (ss. 21(1)(a), 21(1)(b), and 21(1)(c)). See Order F24-51, 2024 BCIPC 60 (CanLII) at 65 and Order F23-30, 2023 BCIPC 34 (CanLII) at paras 32-34.

⁵ GFL's submission at para 13.

⁶ Order 01-36, 2001 CanLII 21590 (BC IPC) at para 17; Order F19-03, 2019 BCIPC 4 (CanLII) at para 43; Order F20-23, 2020 BCIPC 27 at para 10.

⁷ Order F22-33, 2022 BCIPC 37 (CanLII) at para 23.

contract.⁸

[12] GFL submits the first exception applies to the information in the Schedule of Fees. It submits that the volume of the containers it proposed to use to complete the work is immutable and that the pricing rates in the records were calculated using this immutable volume.⁹ It submits that the Schedule of Fees was incorporated into the Contract unchanged.¹⁰

[13] For the reasons that follow, I find GFL has not established that the information in the Schedule of Fees was supplied rather than negotiated.

[14] For information to be immutable and not susceptible to alteration during negotiation, it must be incapable of change. Examples of immutable information include references to fixed costs that the service provider must pay to its own suppliers, or factual information, such as details of the service provider's audited accounts. It could also include the educational and employment history of one of its employees.¹¹

[15] GFL has not adequately supported its submission that the volume of the containers "could not be changed". It appears to me that the container sizes proposed by GFL were the sizes that it thought were best or most convenient or the only ones available to it. Metro Vancouver accepted the proposed sizes. However, this acceptance does not mean that Metro Vancouver had no choice but to accept this term exactly as GFL proposed it. Metro Vancouver had the option to reject the proposed container size, thus making the container size a negotiable term and not immutable information.¹² GFL's own submission that the "Schedule of Fees discloses the volume of the containers that GFL proposed to use to complete the work..." (emphasis added by me) supports this interpretation.¹³

[16] Having found that the information in dispute was not "supplied", I do not need to consider whether it was provided "in confidence" under 21(1)(b) or whether its disclosure could reasonably be expected to result in one of the harms contemplated under s. 21(1)(c).

[17] In conclusion, I find GFL has not met its burden to establish that s. 21(1) applies to the information in dispute.

⁸ Order 01-39, 2001 BCIPC 21593 (CanLII) at paras 45-50.

⁹ GFL's submission at paras 16 and 18.

¹⁰ GFL's submission at para 19.

¹¹ Order F23-30, 2023 BCIPC 34 (CanLII) at paras 25-27.

¹² *Ibid.* See also Order F23-11, 2023 BCIPC 13 (CanLII) at paras 18-19.

¹³ GFL's submission at para 18.

CONCLUSION

[18] For the reasons given above, I make the following order under s. 58 of FIPPA:

1. Metro Vancouver is not required to withhold the information in dispute under s. 21(1).
2. Metro Vancouver is required to give the applicant access to the information in dispute.
3. Metro Vancouver must copy the OIPC registrar of inquiries on the cover letter and records it gives the applicant in compliance with item #2 above.

[19] Pursuant to s. 59(1) of FIPPA, Metro Vancouver is required to comply with this order by April 22, 2026.

March 9, 2026

ORIGINAL SIGNED BY

Rene Kimmett, Adjudicator

OIPC File No.: F23-94213