



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for British Columbia

O.R.L.
office of the
registrar
of lobbyists
BRITISH COLUMBIA

REQUEST FOR QUALIFICATIONS

**Investigation Services for
the Office of the Information and Privacy Commissioner for British Columbia
and for the
Office of the Registrar of Lobbyists for BC**

Issue date of RFQ:

January 16, 2019

Closing location:

4th Floor, 947 Fort Street, Victoria, BC, V8V 3K3
PO Box 9038 Stn Prov Govt, BC V8W 9A4

Closing date and time:

Before 2:00 PM Pacific Time on February 28, 2019

OIPC/ORL Contact:

oline Twiss
Deputy Commissioner
otwiss@oipc.bc.ca
(250) 953-4138

1. Description of the OIPC

The Commissioner is an officer of the Legislature appointed under the *Freedom of Information and Protection of Privacy Act* (FIPPA) and is independent of government. The Commissioner has compliance oversight functions and other duties under FIPPA and the *Personal Information Protection Act* (PIPA). The Commissioner's core activities with respect to FIPPA and PIPA are investigation, mediation and adjudication of requests for review and complaints. The Commissioner is also the Registrar of Lobbyists under the *Lobbyists Registration Act* (LRA).

2. Purpose of RFQ

This request for qualifications (RFQ) relates to the Commissioner's investigation functions under FIPPA and PIPA. The purpose of the RFQ is to identify individuals who are interested and qualified to provide investigation services to the Commissioner.

As the Commissioner's delegate, an investigator exercises considerable investigation authority and investigates and mediates access to information disputes filed under the *Freedom of Information and Protection of Privacy Act* (FIPPA) as well as investigates and attempts to resolve privacy complaints received under the *Personal Information Protection Act* (PIPA).

The investigator:

- remains current on *FIPPA*, *PIPA* and emerging information and privacy protection legislation, regulations and policies within British Columbia, and in other jurisdictions and keeps up-to-date on related case law and OIPC Orders;
- exercises independent judgment and investigates and mediates each case on its merits by considering the evidence and applicable legislation and legal principles, notably administrative law principles;
- may provide comment to public and private organizations covered by either FIPPA or PIPA to assist them in complying with their responsibilities under the legislation and work with FOI officials and privacy officers in public bodies and organizations to address issues relating to access to information and the protection of personal privacy; and
- makes determinations as to whether or not a matter should proceed to inquiry, in matters where mediation is not successful under PIPA or FIPPA, and will prepare a case for hearing by summarizing relevant facts, outlining positions of parties, identifying issues to be resolved, and notifying third parties and affected persons of their rights to participate in the hearing.

Based on the review of the RFQ Responses the Commissioner intends to establish a List of Qualified Investigators who, at the Commissioner's sole discretion, may be asked to enter into a contract for provision of investigation services. The Commissioner's intention

is to enter into contracts with qualified investigators on an “if, as and when needed basis”. The contracts will be in the range of \$10,000 - \$50,000.

This RFQ will not lead to a contract with, or any obligations or duties to, anyone who submits a response or who is included on the list of qualified investigators as provided below. The OIPC will instead retain qualified investigators to provide investigation services from time to time as determined by the Commissioner in the Commissioner’s sole discretion. Further relevant conditions are set out later in this RFQ.

3. Service Areas

The following are the services that the Commissioner may require from investigators

- Access to information law (FIPPA)
- Privacy protection law - public sector (PIPA)
- Privacy protection law - private sector (FIPPA)

Expertise in all aspects of these areas is necessary, including expertise conducting investigations and mediation.

Familiarity with relevant statutes, case-law, and OIPC Orders, as well as the statutory and case-law foundations of each area and in other (notably Canadian) jurisdictions, is also expected.

4. Enquiries

All enquiries related to this RFQ are to be directed, in writing, to the OIPC/ORL contact identified on the front cover of this RFQ.

5. Closing Date

All responses to the RFQ must be received before 2:00 PM, Pacific Time, on the date and at the address specified on the front cover of this RFQ.

6. How to submit

Responses must be received by the OIPC/ORL, in accordance with the procedure set out below.

Responses can be received by email or courier at the address set out on the front cover of this RFQ.

Responses must be addressed to the attention of oline Twiss, Deputy Commissioner.

Any questions about this process must be directed in writing to oline Twiss, who will answer only in writing. Communications for this purpose only can be by email. The email address is otwiss@oipc.bc.ca.

7. Content of Submission

Submissions to the RFQ must be in writing and include, at a minimum, the following:

- The name of the investigator who will provide the services;
- A description of the investigator's expertise and experience as it relates to each of the required Service Areas (see section on Service Area).

Responses may contain other information that the person submitting considers desirable, including supplementary materials such as lists of relevant representative clients and/or a resume.

8. Pricing

The Commissioner pays for investigation services on an hourly basis. The hourly rate is based on the investigator's experience in investigations and familiarity and expertise in FIPPA and PIPPA. The hourly rates are set out in Appendix A.

9. Not a Contract

This RFQ is not an agreement to purchase services. Notice in writing to an investigator that he/she has been identified as a qualified investigator on the List of Qualified Investigators will neither constitute a contract nor give the investigator any legal or equitable rights or privileges relative to the this RFQ. Only if an investigator and the Commissioner enter into a subsequent written and executed contract will the investigator acquire any legal or equitable rights or privileges.

The Commissioner has no obligation to enter into a contract with any investigator on the List of Qualified Investigators.

10. List Not Binding

An investigator may withdraw his/her name from the List of Qualified Investigators by notifying the OIPC in writing. The OIPC may withdraw a name of an investigator from the List of Qualified Investigators by notifying that investigator in writing.

The OIPC reserves the right, in its sole discretion, to:

- retain any investigator external to the List of Qualified Investigators;
- at any time, cancel, extend, expand or make a call to the market-place to renew the List of Qualified Investigators; and

- consider requests for inclusion on the List of Qualified Investigators at any time during the term of the List. Any such requests will be subject to those investigators submitting their qualification information for review in the same manner as originally outlined in this RFQ.

11. Use of List

The List of Qualified Investigators will be in effect until March 31, 2024.

The OIPC may, in its sole discretion, from time to time, invite an investigator from the List of Qualified Investigators to enter into a contract to provide the investigator services required. The criteria for selecting an investigator from the List to enter into a contract will vary, depending upon the requirements of the task, the specific experience and proficiency level of the investigator and the investigator's availability.

The OIPC has the sole discretion to remove an investigator from the List of Qualified Investigators for unsatisfactory performance or for failing to meet the requirements for the List of Qualified Investigators as set out in this RFQ or as may be communicated by the OIPC from time to time.

12. Confidentiality of Information

Information pertaining to the Commissioner and the OIPC obtained by the investigator as a result of participation in this RFQ is confidential and must not be disclosed without written authorization from the Commissioner.

13. Collection of Personal Information

Personal information is collected through this RFQ process, under the authority of s. 26(c) of *Freedom of Information and Protection of Privacy Act*, only for the purpose of assessing suitability for possible provision of legal services to the OIPC and will not be used or disclosed for any other purpose.

Personal information will be retained by the OIPC for at least one year after the date on which the OIPC determines which lawyers are qualified to provide legal services to the OIPC.

Any questions about this collection of personal information may be addressed to the contact person at the email address and telephone number above.

January 16, 2019

oline Twiss
Deputy Commissioner

Office of the Information and Privacy Commissioner

Appendix A – Hourly Rates

YEARS OF EXPERIENCE	HOURLY RATE
1 - 2	\$60
3 - 5	\$80
6 +	\$95

Rates that exceed these amounts must be approved by the Commissioner.