



Manitoba Ombudsman

2012 Access Practices Reassessment of
the City of Winnipeg

Audit Report under Section 49 of
*The Freedom of Information and Protection
of Privacy Act (FIPPA)*

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ACTING OMBUDSMAN'S MESSAGE

In 2010, we launched our FIPPA Access Practices Assessment initiative for the purpose of strengthening the FIPPA access practices of public bodies. Two years later, we have seen through our audits and reassessments that access practices can be and have been strengthened by public bodies, often with minor modifications to the process.

We continue to believe that the audits we conduct under this initiative are important for public bodies and for Manitobans because the components examined and assessed in the course of the audit are the foundation for efficient, thorough and accountable access decisions made under FIPPA.

Each year, different public bodies are audited. The components we examine through the audit are: (1) compliance with the requirements of a response to an applicant under section 12 of the Act; (2) compliance with time requirements of the Act; (3) adequacy of records preparation; and, (4) adequacy of the contents of the FIPPA file. If recommendations are made as a result of the audit, the public body is subject to a reassessment audit in the following year. The audit does not assess the correctness of the access decision because applicants have a right of complaint about the access decision, to the Ombudsman.

Since launching this initiative, we have audited the access practices of the Workers Compensation Board, Manitoba Justice, the University of Manitoba, Manitoba Hydro, Manitoba Innovation, Energy and Mines and Manitoba Public Insurance's timeliness in responding to applicants under FIPPA. Further audits or reassessments have also been conducted on the implementation of recommendations that were made to these public bodies.

In 2011 we audited the access practices of the City of Winnipeg and in February 2012 we released a public audit report containing 21 recommendations. (The February 2012 report did not include the Winnipeg Police Service (WPS) because it was audited separately and our public report on it was issued in May 2012.) The City accepted all of the recommendations.

A reassessment of the City departments that received recommendations (10 departments) occurred in the summer and late fall of 2012. This report provides our findings and observations of the reassessment in relation to the 21 recommendations made by the Ombudsman in 2011.

Generally, the reassessment of the City showed that as a whole, the Ombudsman's recommendations were effectively implemented and that all but one department improved in each component area that was reassessed.

In the 2012 reassessment the overall average of the components that were assessed was 88%. In the 2011 audit, the City average for the same components by department was 59%. This is a substantial improvement in performance.



As with previous audit reports, we have included two tools to assist all public bodies in processing FIPPA requests. These tools, a *Guideline on Time Frames for Processing a FIPPA Request* and *The Standard Contents of a FIPPA File*, are found in Appendix A and B respectively. I encourage all public bodies to make use of these tools. I particularly want to stress the importance of documenting FIPPA deliberations and decisions, and indeed the importance of documenting all deliberations and decisions made by public bodies each and every day. Fairness, transparency and accountability begin with it and depend on it.

All FIPPA Access Practices Assessment reports are available on our website.

We gratefully acknowledge the full cooperation and assistance provided by the City of Winnipeg throughout the 2012 reassessment audit process.

Mel Holley
Acting Manitoba Ombudsman

BACKGROUND

AUTHORITY TO CONDUCT THE AUDIT

In addition to investigation of complaints, the Ombudsman may conduct audits and make recommendations to monitor and ensure compliance under FIPPA, as provided for in section 49 of the Act which states:

General powers and duties

49 *In addition to the Ombudsman's powers and duties under Part 5 respecting complaints, the Ombudsman may*

(a) conduct investigations and audits and make recommendations to monitor and ensure compliance

(i) with this Act and the regulations

THE AUDIT PROCESS

In June 2012, the City was notified by letter of our intention to conduct the access practices reassessment. The reassessment occurred in July, August and November 2012.

If recommendations were not made to a department it was not included in the reassessment. For example, in the 2011 audit, recommendations were not made to Transit, therefore it was not reassessed and is not included in this report. Similarly, no recommendations were made as a result of the separate audit of the WPS that occurred in early 2012, therefore it was not reassessed and is not included in this report. The Audit Department and Winnipeg Parking Authority were not assessed in 2011 because they did not have FIPPA files to be audited and are not included in this report.

Reassessment audits are undertaken in the year following the initial audit to assess a public body's access practices in relation to recommendations that had been made by the Ombudsman. Only the component areas where a recommendation was made are reassessed. Reassessments are undertaken as a check-up on the implementation of recommendations rather than as an exhaustive review.

For the most part, we reviewed the actual number of completed FIPPA files (i.e. the files that are set up to process applications for access) where the access decision was to refuse access to records in full or in part, or where records do not exist or cannot be located for the period of January 1, 2012 to June 30, 2012. However, in two departments (Assessment and Taxation, and City Clerk's Department) there were completed files where access was granted but no completed FIPPA files where access was refused in the January-June time period. In these two cases we assessed the completed files where access was granted. For the Fire Paramedic Service, which had a high volume of FIPPA files, we used the same criteria in terms of time frame and refusal type of access decisions, except we randomly selected a sample of 15 files for review.

In total, 73 FIPPA files that were completed between January 1 to June 30, 2012 were assessed in 2012.



Feedback meetings occurred after each reassessment was completed. Observations and suggestions for best practices were provided where possible, and the general findings of the audit were discussed in relation to compliance with the recommendations that were made in 2011. The 2011 recommendations were:

Recommendation # 1

It is recommended that Assessment and Taxation comply with the required contents of a response letter under section 12 of FIPPA, for each request.

Recommendation # 2

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that Assessment and Taxation adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.

Recommendation # 3

It is recommended that the CAO's Office comply with the required contents of a response letter under section 12 of FIPPA, for each request.

Recommendation # 4

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that the CAO's Office adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.

Recommendation # 5

It is recommended that the CAO's Office conduct a line-by-line review of each record responsive to an Application for Access and ensure that when portions of information are withheld, that the exceptions to disclosure are fully cited on the file copy of the record adjacent to any withheld portions.

Recommendation # 6

It is recommended that the City Clerk's Department comply with the required contents of a response letter under section 12 of FIPPA, for each request.

Recommendation # 7

It is recommended that City Clerk's Department comply with the time requirements of the Act.

Recommendation # 8

It is recommended that Community Services comply with the required contents of a response letter under section 12 of FIPPA, for each request.

Recommendation # 9

It is recommended that Community Services comply with the time requirements of the Act.

Recommendation # 10

It is recommended that Corporate Support Services comply with the required contents of a response letter under section 12 of FIPPA, for each request.

Recommendation # 11

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that Corporate Support Services adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.

Recommendation # 12

It is recommended that when information is withheld, that Corporate Support Services ensure that the applicable exceptions are noted on a FIPPA file copy of the record beside the information that is being withheld.

Recommendation # 13

It is recommended that Winnipeg Fire Paramedic Service comply with the required contents of a response letter under section 12 of FIPPA, for each request.

Recommendation # 14

It is recommended that the Mayor's Office comply with the required contents of a response letter under section 12 of FIPPA, for each request.

Recommendation # 15

It is recommended that the Mayor's Office comply with the time requirements of the Act.

Recommendation # 16

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that the Mayor's Office adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.

Recommendation # 17

It is recommended that Planning, Property and Development comply with the required contents of a response letter under section 12 of FIPPA, for each request.

Recommendation # 18

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that Planning, Property and Development adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.

Recommendation # 19

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that Public Works adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.

Recommendation # 20

It is recommended that Public Works conduct a line-by-line review of each record responsive to an Application for Access.

Recommendation # 21

It is recommended that Water and Waste comply with the required contents of a response letter under section 12 of FIPPA, for each request.

FINDINGS AND OBSERVATIONS

GENERAL FINDINGS

AVERAGES BY DEPARTMENTS AND COMPONENTS THAT WERE REASSESSED IN 2012

73 files were assessed

- Assessment and Taxation - 100% in the 2 components (section 12 compliance and adequacy of file contents) that were reassessed (30% in the same 2 components in 2011).
- CAO's Office - 93% in the 3 components (section 12 compliance, adequacy of records preparation and adequacy of file contents) that were reassessed (25% in the same 3 components in 2011).
- City Clerk's - 100% in the 2 components (section 12 compliance and timeliness) that were reassessed (67% in the same 2 components in 2011).
- Community Services - 96% in the 2 components (section 12 compliance and timeliness) that were reassessed (89% in the same 2 components in 2011).
- Corporate Support Services (includes Finance and Legal Services) - 94% in the 3 components (section 12 compliance, adequacy of records preparation and adequacy of file contents) that were reassessed (55% in the same 3 components in 2011).
- Fire Paramedic Service - 100% in the 1 component (section 12 compliance) that was reassessed (0% in the same component in 2011).
- Mayor's Office - 53% in the 3 components (section 12 compliance, timeliness, and adequacy of file contents) that were reassessed (67% in the same 3 components in 2011).
- Planning, Property and Development - 100% in the 2 components (section 12 compliance and adequacy of file contents) that were reassessed (76% in the same 2 components in 2011).
- Public Works - 100% in the 2 components (adequacy of records preparation and adequacy of file contents) that were reassessed (79% in the same 2 components in 2011).
- Water and Waste - 86% in the 1 component (section 12 compliance) that was reassessed (56% in the same component in 2011).

OVERALL COMPONENT AVERAGES

- Compliance with section 12 - an average of 96% of responses were compliant with section 12 (53% in 2011).
- Compliance with time requirements - an average of 76% of the files reviewed were compliant with time requirements (79% in 2011).
- Adequacy of records preparation - an average of 93% of the files reviewed had adequate records preparation (50% in 2011).
- Adequacy of the contents of the FIPPA file - an average of 88% of the files reviewed had adequate contents (54% in 2011).

Average 88% (59% in 2011)

SNAPSHOT COMPARISON OF 2011 AND 2012 FINDINGS

	SECTION 12		TIME REQUIREMENTS		RECORDS PREPARATION		CONTENTS OF FIPPA FILE	
	2011	2012	2011	2012	2011	2012	2011	2012
ASSESSMENT AND TAXATION	20%	100%	-	-	-	-	40%	100%
CAO'S OFFICE	33%	100%	-	-	25%	80%	17%	100%
CITY CLERK'S	67%	100%	67%	100%	-	-	-	-
COMMUNITY SERVICES	84%	91%	94%	100%	-	-	-	-
CORPORATE SUPPORT SERVICES	74%	100%	-	-	44%	100%	48%	83%
FIRE PARAMEDIC SERVICE	0%	100%	-	-	-	-	-	-
MAYOR'S OFFICE	50%	86%	75%	29%	-	-	75%	43%
PLANNING, PROPERTY AND DEVELOPMENT	88%	100%	-	-	-	-	63%	100%
PUBLIC WORKS	-	-	-	-	80%	100%	78%	100%
WATER AND WASTE	56%	86%	-	-	-	-	-	-
AVERAGE	53%	96%	79%	76%	50%	93%	54%	88%

The "-" in some of the boxes indicates that the component was not reassessed.

GENERAL OBSERVATIONS

- All departments satisfactorily implemented the Ombudsman's recommendations except for the Mayor's Office which failed to implement the recommendations relating to time requirements and adequacy of the contents of the FIPPA files.
- Compliance with section 12 is excellent. Generally, the departments are providing applicants with robust responses that often include contextual and background information, referrals, and website links that may be of use or interest to applicants. Often the additional information that is researched and assembled by staff for applicants exceeds the requirements of section 12, and is done in the spirit of providing positive and good customer service.
- Timeliness is excellent for two (City Clerk's and Community Services) of the three departments that were reassessed. However, timeliness in the Mayor's Office's is poor and much weaker than in 2011.
- The adequacy of records preparation is very good.
- The adequacy of file content is excellent for four departments (Assessment and Taxation, CAO's Office, Planning, Property and Development, and Public Works). Adequacy of file content is very good for Corporate Support Services although one file had inadequate contents. About half of the files in the Mayor's Office had contents that were inadequate.
- The 2012 reassessment noted that processing time was lost for some requests because there was uncertainty as to which department(s) in the City the request should be sent after it was received. This issue was identified in our 2011 audit of the City and continues to be a frustration in the processing of requests.

FINDINGS BY COMPONENT AREA

COMPLIANCE WITH SECTION 12

What is Required

Section 12 of FIPPA sets out the mandatory elements that are required in a response to an applicant:

Contents of response

12(1) *In a response under section 11, the head of the public body shall inform the applicant*

- (a) whether access to the record or part of the record is granted or refused;*
- (b) if access to the record or part of the record is granted, where, when and how access will be given; and*
- (c) if access to the record or part of the record is refused,*
 - (i) in the case of a record that does not exist or cannot be located, that the record does not exist or cannot be located,*
 - (ii) in the case of a record that exists and can be located, the reasons for the refusal and the specific provision of this Act on which the refusal is based,*
 - (iii) of the title and business telephone number of an officer or employee of the public body who can answer the applicant's questions about the refusal, and*
 - (iv) that the applicant may make a complaint to the Ombudsman about the refusal.*

What was Assessed

In assessing compliance, if one or more required element was missing from the response letter it was determined to be not compliant.

Nine departments were reassessed.

What We Found

- Assessment and Taxation - 100% of responses were compliant with section 12 (20% of responses were compliant in 2011).
- CAO's Office - 100% of responses were compliant with section 12 (33% of responses were compliant in 2011).
- City Clerk's - 100% of responses were compliant with section 12 (67% of responses were compliant in 2011).
- Community Services - 91% of responses were compliant with section 12 (84% of responses were compliant in 2011).
- Corporate Support Services (includes Finance and Legal Services) - 100% of responses were compliant with section 12 (74% of responses were compliant in 2011).

- Fire Paramedic Service - 100% of responses were compliant with section 12 (0% of responses were compliant in 2011).
- Mayor's Office - 86% of responses were compliant with section 12 (50% of responses were compliant in 2011).
- Planning, Property and Development - 100% were compliant with section 12 (88% of responses were compliant in 2011).
- Water and Waste - 86% of responses were compliant with section 12 (56% of responses were compliant in 2011).

Average 96% (53% in 2011)

COMPLIANCE WITH TIME REQUIREMENTS

What is Required

Compliance with the time frames set out in FIPPA is required.

For a request to be processed within the time limit of 30 calendar days, we devised the *Guideline on Time Frames for Processing a FIPPA Request* (see Appendix A) as a tool to assist public bodies.

What was Assessed

If the response from the public body was sent to the applicant within the time limits required by FIPPA, (taking into account any extensions taken or fee estimates), the response was determined to be compliant.

Three departments were reassessed.

What We Found

- City Clerk's - 100% compliance with time requirements (67% compliance in 2011).
- Community Services - 100% compliance with time requirements (94% compliance in 2011).
- Mayor's Office - 29% compliance with time requirements (75% compliance in 2011).

Average 76% (79% in 2011)

ADEQUACY OF RECORDS PREPARATION

What is Expected

Each Application for Access should result in a search for responsive records and if responsive records are located, a line-by-line review should be undertaken.

When access to part of the records is refused, the FIPPA file should contain a copy of the severed and unsevered records. Where information has been severed, the applicable provision of FIPPA should be cited beside the passage that is being withheld. When information is withheld in whole, if all the exceptions apply to each word, then the exceptions can be noted on the first page of the records.

What was Assessed

If records existed and the unsevered records and the severed records were in the FIPPA file with the exceptions fully cited and noted where they applied, the records preparation was determined to be adequate.

Three departments were reassessed.

What We Found

- CAO's Office - 80% of the files had adequate records preparation (25% of the files had adequate records preparation in 2011).
- Corporate Support Services (includes Finance and Legal Services) - 100% of the files had adequate records preparation (44% of the files had adequate records preparation in 2011).
- Public Works - 100% of the files had adequate records preparation (80% of the files had adequate records preparation in 2011).

Average 93% (50% in 2011)

ADEQUACY OF THE CONTENTS OF THE FIPPA FILE

What is Expected

The content of the FIPPA file is critically important because it is the public body's documented corporate record and memory of the actions and decisions that made up the processing of the Application for Access.

Thorough documentation during the decision-making process is essential to keep track of how, why and by whom decisions were made. Documentation should show why the access decision was made, who was involved in the decision and their contribution, why an exception applies, and where applicable, the consideration of any limits to the exception and the exercise of discretion. It is also important to document the search that was undertaken especially where the decision is that records do not exist or

cannot be located. In our view, adequacy of the contents of the FIPPA file can be achieved by adopting the guideline, *The Standard Contents of a FIPPA File* (see Appendix B).

The FIPPA file should exist as a stand-alone corporate memory and there should not be a need to rely on any one individual's memory.

What was Assessed

If the file contained sufficient information and documentation to explain, support, or substantiate each aspect of the access decision, the file documentation was determined to be adequate.

Six departments were reassessed.

What We Found

- Assessment and Taxation - 100% of the files had adequate contents (40% of the files had adequate contents in 2011).
- CAO's Office - 100% of the files had adequate contents (17% of the files had adequate contents in 2011).
- Corporate Support Services (includes Finance and Legal Services) - 83% of the files had adequate contents (48% of the files had adequate contents in 2011).
- Mayor's Office - 43% of the files had adequate contents (75% of the files had adequate contents in 2011).
- Planning, Property and Development - 100% of the files had adequate contents (63% of the files had adequate contents in 2011).
- Public Works - 100% of the files had adequate contents (78% of the files had adequate contents in 2011).

Average 88% (54% in 2011)

2012 KEY FINDINGS AND OBSERVATIONS BY DEPARTMENT

ASSESSMENT AND TAXATION

2011 Audit

In the 2011 audit, the components of section 12 compliance and the adequacy of the contents of the FIPPA files were identified as weaknesses. Assessment and Taxation's average in 2011 for section 12 compliance and the adequacy of the contents of the FIPPA files was 30%.

The following recommendations were made in 2011 to Assessment and Taxation to address the weaknesses that were identified:

It is recommended that Assessment and Taxation comply with the required contents of a response letter under section 12 of FIPPA, for each request.

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that Assessment and Taxation adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.

2012 REASSESSMENT FINDINGS FOR ASSESSMENT AND TAXATION

3 FIPPA FILES WERE REVIEWED

NOTE: Assessment and Taxation processed a total of 3 FIPPA files in the time period of January 1st to June 30, 2012. Of these 3 files, 1 was abandoned by the applicant and 2 were granted in full. As there were no files to review where access was denied, we assessed the implementation of the recommendations in relation to the 3 files that were processed by the department within the January-June 2012 time period.

- **Compliance with Section 12 - 100% of responses were compliant with section 12: the responses relating to the 2 files where access was granted in full were assessed and were 100% compliant; the response relating to the 1 file which was abandoned by the applicant was not reviewed because an access decision was not made (20% of responses were compliant in 2011).**
- Compliance with Time Requirements - Not reassessed because a recommendation relating to time requirements was not made in 2011.
- Adequacy of Records Preparation - Not reassessed because a recommendation relating to records preparation was not made in 2011.
- **Adequacy of the Contents of the FIPPA File - 100% of the files had adequate contents (40% of the files had adequate contents in 2011).**

Comparison of 2011 and 2012 Findings for Assessment and Taxation

	2011	2012
COMPLIANCE WITH SECTION 12	20%	100%
ADEQUACY OF CONTENTS OF FILE	40%	100%
AVERAGE	30%	100%

OBSERVATIONS

- Strengths that were observed in the 2011 audit continued to be in evidence in 2012: positive customer service practices such as proactive and constructive communication with applicants; and, as a courtesy, a copy of the applicant's FIPPA application is provided with the department's response letter.
- The 2012 reassessment, although based on a small number of files, determined that there was significant overall improvement in the two components that were reassessed and that the recommendations made by the Ombudsman in 2011 were effectively implemented.
- The 2012 reassessment identified new good practices including: the use of a tracking sheet in each FIPPA file for the documentation of the file activity and decision-making; and, the use of a checklist to ensure the adequacy of the required contents for each FIPPA file. We also noted there was evidence of good internal consultations amongst staff who seem to work as a well-coordinated team in processing FIPPA requests.

CAO'S OFFICE

2011 AUDIT

In the 2011 audit, section 12 compliance, the adequacy of the contents of the FIPPA file, and the adequacy of records preparation were identified as weaknesses. The CAO's Office's overall average for these three components in 2011 was 25%.

The following recommendations were made in 2011 to the CAO's Office to address the weaknesses that were identified:

It is recommended that the CAO's Office comply with the required contents of a response letter under section 12 of FIPPA, for each request.

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that the CAO's Office adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.

It is recommended that the CAO's Office conduct a line-by-line review of each record responsive to an Application for Access and ensure that when portions of information are withheld, that the exceptions to disclosure are fully cited on the file copy of the record adjacent to any withheld portions.

2012 REASSESSMENT FINDINGS FOR THE CAO'S OFFICE

5 FIPPA FILES WERE REVIEWED

- **Compliance with Section 12 - 100% of responses were compliant with section 12 (33% of responses were compliant in 2011).**
- Compliance with Time Requirements - Not reassessed because a recommendation relating to time requirements was not made in 2011.



- **Adequacy of Records Preparation - 80% of the files had adequate records preparation: 4 files were adequate and 1 file was inadequate (25% of files had adequate records preparation in 2011).**
- **Adequacy of the Contents of the FIPPA File - 100% of the files had adequate contents (17% of the files had adequate contents in 2011).**

Comparison of 2011 and 2012 Findings for the CAO's Office

	2011	2012
COMPLIANCE WITH SECTION 12	33%	100%
ADEQUACY OF RECORDS PREP	25%	80%
ADEQUACY OF CONTENTS OF FILE	17%	100%
AVERAGE	25%	93%

OBSERVATIONS

- Strengths that were observed in the 2011 audit continued to be in evidence in 2012: generally, searches for records seem to be thorough and diligent.
- The 2012 reassessment determined that there was a significant overall improvement in the CAO's Office's performance and that the Ombudsman's recommendations were effectively implemented.
- The 2012 reassessment identified the use of a new form ("FIPPA Application Worksheet") in each file to assist in tracking various actions and details related to the processing of the request. Also, generally, the response letters provide substantial explanations and additional information that may be of assistance to the applicant.

The CAO's Office's review of the records in one file was not adequate. Going forward, the CAO's Office should make certain that a line-by-line review of each record responsive to an "Application for Access" is conducted and ensure that when portions of information are withheld, the exceptions to disclosure are fully cited on the FIPPA file copy of the record adjacent to the withheld portion.

CITY CLERK'S DEPARTMENT

2011 AUDIT

In the 2011 audit, compliance with section 12 and timeliness were identified as weaknesses. City Clerk's Department's average in 2011 for section 12 compliance and timeliness was 67%.

The following recommendations were made in 2011 to the City Clerk's Department to address the weaknesses that were identified:

It is recommended that the City Clerk's Department comply with the required contents of a response letter under section 12 of FIPPA, for each request.

It is recommended that the City Clerk's Department comply with the time requirements of the Act.



2012 REASSESSMENT FINDINGS FOR THE CITY CLERK'S DEPARTMENT**2 FIPPA FILES WERE REVIEWED**

Note: As there were no files to review where access was denied, but 2 files where access was granted, we assessed the implementation of the recommendations in relation to the 2 files that were processed by the department within the January-June 2012 time period.

- **Compliance with Section 12 - 100% of responses were compliant with section 12 (67% of responses were compliant in 2011).**
- **Compliance with Time Requirements - 100% of responses were completed within the required time frames (67% compliance in 2011).**
- Adequacy of Records Preparation - Not reassessed because a recommendation relating to the adequacy of records preparation was not made in 2011.
- Adequacy of the Contents of the FIPPA File - Not reassessed because a recommendation relating to the adequacy of contents was not made in 2011.

Comparison of 2011 and 2012 Findings for the City Clerk's Office

	2011	2012
COMPLIANCE WITH SECTION 12	67%	100%
COMPLIANCE WITH TIME REQUIREMENTS	67%	100%
AVERAGE	67%	100%

OBSERVATIONS

- Strengths that were observed in the 2011 audit continued to be in evidence in 2012: response letters to applicants offer additional and detailed information that may be of interest; and, as much information as possible is provided and in a format that is user-friendly.
- The 2012 reassessment, although based on a small number of files, determined that there was significant overall improvement in the City Clerk's Department's performance in the two components that were reassessed and that the recommendations made by the Ombudsman in 2011 were effectively implemented.

COMMUNITY SERVICES**2011 AUDIT**

In the 2011 audit, section 12 compliance and timeliness were identified as weaknesses. Community Services's average in 2011 for section 12 compliance and timeliness was 89%.

The following recommendations were made in 2011 to Community Services to address the weaknesses that were identified:

It is recommended that Community Services comply with the required contents of a response letter under section 12 of FIPPA, for each request.



It is recommended that Community Services comply with the time requirements of the Act.

2012 REASSESSMENT FINDINGS FOR COMMUNITY SERVICES

11 FIPPA FILES WERE REVIEWED

- **Compliance with Section 12 - 91% of responses were compliant with section 12: 10 responses were compliant and 1 response was not compliant (84% of responses were compliant in 2011).**
- **Compliance with Time Requirements - 100% of responses were completed within the required time frames (94% compliance in 2011).**
- Adequacy of Records Preparation - Not reassessed because a recommendation relating to records preparation was not made in 2011.
- Adequacy of the Contents of the FIPPA File - Not reassessed because a recommendation relating to contents was not made in 2011.

Comparison of 2011 and 2012 Findings for Community Services

	2011	2012
COMPLIANCE WITH SECTION 12	84%	91%
COMPLIANCE WITH TIME REQUIREMENTS	94%	100%
AVERAGE	89%	96%

OBSERVATIONS

- Strengths that were observed in the 2011 audit continued to be in evidence in 2012: the physical contents of the files are well-organized and easy to navigate; and, communication with applicants to clarify, resolve, and satisfy requests is productive and constructive.
- The 2012 reassessment determined that there was improvement in the performance of Community Services and that the Ombudsman's recommendations were effectively implemented.
- The 2012 reassessment noted that Community Services is now consistently using a file tracking sheet (a good practice that was begun in late 2010) to document activity/decisions and record dates of key events or actions taken.

CORPORATE SUPPORT SERVICES (INCLUDES CITY LEGAL SERVICES AND FINANCE)

2011 AUDIT

In the 2011 audit, section 12 compliance, the adequacy of the contents of the FIPPA files, and the adequacy of records preparation were identified as weaknesses. Corporate Support Service's average in 2011 for these three components was 55%.

The following recommendations were made in 2011 to Corporate Support Services to address the weaknesses that were identified:

It is recommended that Corporate Support Services comply with the required contents of a response letter under section 12 of FIPPA, for each request.

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that Corporate Support Services adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.

It is recommended that when information is withheld, that Corporate Support Services ensure that the applicable exceptions are noted on a FIPPA file copy of the record beside the information that is being withheld.

2012 REASSESSMENT FINDINGS FOR CORPORATE SUPPORT SERVICES

6 FIPPA FILES WERE REVIEWED

- **Compliance with Section 12 - 100% of responses were compliant with section 12 (74% were compliant in 2011).**
- Compliance with Time Requirements - Not reassessed because a recommendation relating to records preparation was not made in 2011.
- **Adequacy of Records Preparation - 100% of the files had adequate records preparation (44% of the files had adequate records preparation in 2011).**
- **Adequacy of the Contents of the FIPPA File - 83% of the files had adequate contents: 5 files had adequate contents and 1 file had inadequate contents (48% of the files had adequate contents in 2011).**

Comparison of 2011 and 2012 Findings for Corporate Support Services

	2011	2012
COMPLIANCE WITH SECTION 12	74%	100%
ADEQUACY OF RECORDS PREP	44%	100%
ADEQUACY OF CONTENTS OF FILE	48%	83%
AVERAGE	55%	94%

OBSERVATIONS

- Strengths that were observed in the 2011 audit continued to be in evidence in 2012: response letters to applicants provide helpful contextual information and comprehensive reasons about why access is being refused; response letters and actions taken to assist applicants reflect a positive customer service focus; and, communication with applicants seems to be productive and constructive.
- The 2012 reassessment determined that there was a significant overall improvement in the performance of Corporate Support Services and that the Ombudsman's recommendations were effectively implemented.

- The 2012 reassessment noted that Corporate Support Services is using a "FIPPA Tracking Log" sheet for FIPPA files. The Log is a record of the disposition of the access decision and is used to record dates and document key events, actions, deliberations and decisions related to the FIPPA files.

One file that was assessed did not contain sufficient documentation about the access decision. Going forward, Corporate Support Services should ensure there is adequate documentation contained in the FIPPA file as set out in the guideline *The Standard Contents of a FIPPA File*.

FIRE PARAMEDIC SERVICE

2011 AUDIT

In the 2011 audit, section 12 compliance was identified as a weakness. Fire Paramedic Service's average in 2011 for section 12 compliance was 0%.

The following recommendation was made to the Fire Paramedic Service to address the weakness that was identified:

It is recommended that Winnipeg Fire Paramedic Service comply with the required contents of a response letter under section 12 of FIPPA, for each request.

2012 REASSESSMENT FINDINGS FOR THE FIRE PARAMEDIC SERVICE

15 FIPPA FILES WERE REVIEWED

- **Compliance with Section 12 - 100% of responses were compliant with section 12 (0% of responses were compliant in 2011).**
- Compliance with Time Requirements - Not reassessed because a recommendation relating to time requirements was not made in 2011.
- Adequacy of Records Preparation - Not reassessed because a recommendation relating to adequacy of records preparation was not made in 2011.
- Adequacy of the Contents of the FIPPA File - Not reassessed because a recommendation relating to adequacy of contents was not made in 2011.

Comparison of 2011 and 2012 Findings for Fire Paramedic Service

	2011	2012
COMPLIANCE WITH SECTION 12	0%	100%
AVERAGE	0%	100%

OBSERVATIONS

- Strengths that were observed in the 2011 audit continued to be in evidence in 2012: the processing of applications for access is extremely efficient; effort is made to provide referral or additional information to applicants where possible; and, the FIPPA files are well-organized.

- The 2012 reassessment determined that there was outstanding improvement in compliance with section 12 of FIPPA and that the Ombudsman's recommendation was effectively implemented.

MAYOR'S OFFICE

2011 AUDIT

In the 2011 audit, section 12 compliance, timeliness, and the adequacy of the contents of the FIPPA files were identified as weaknesses. The Mayor's Office's average for these three components in 2011 was 67%.

The following recommendations were made in 2011 to the Mayor's Office to address the weaknesses that were identified:

It is recommended that the Mayor's Office comply with the required contents of a response letter under section 12 of FIPPA, for each request.

It is recommended that the Mayor's Office comply with the time requirements of the Act.

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that the Mayor's Office adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.

2012 REASSESSMENT FINDINGS FOR THE MAYOR'S OFFICE

7 FIPPA FILES WERE REVIEWED

- **Compliance with Section 12 - 86% of responses were compliant with section 12: 6 responses were compliant and 1 response was not compliant (50% of responses were compliant in 2011).**
- **Compliance with Time Requirements - 29% of responses were completed within the required time frames: 2 responses were on time and 5 responses were late (75% compliance in 2011).**
- **Adequacy of Records Preparation - Not reassessed because a recommendation relating to adequacy of records preparation was not made in 2011.**
- **Adequacy of the Contents of the FIPPA File - 43% of files had adequate contents: 3 files had adequate contents and 4 files had inadequate contents (75% of the files had adequate contents in 2011).**

Comparison of 2011 and 2012 Findings for the Mayor's Office

	2011	2012
COMPLIANCE WITH SECTION 12	50%	86%
COMPLIANCE WITH TIME REQUIREMENTS	75%	29%
ADEQUACY OF CONTENTS OF FILE	75%	43%
AVERAGE	67%	53%



OBSERVATIONS

- The 2012 reassessment determined that there was substantial improvement in the Mayor's Office's performance in the component of section 12 compliance. However, the 2012 performance in the components of time requirements and adequacy of contents of the FIPPA files was significantly weaker than the performance in the same components in 2011.
- Although one response was not compliant with section 12, we are satisfied with the Mayor's Office's performance in implementing the Ombudsman's recommendation regarding compliance with section 12.
- Performance in the components of time requirements and adequacy of contents of the FIPPA files indicates that the Ombudsman's recommendations were not effectively implemented.
- The 2012 reassessment noted that the Mayor's Office has implemented a FIPPA summary sheet which records the file number, date received, due date and the documents that are being requested.

To further monitor compliance with time requirements and adequacy of the contents of the FIPPA files, we may conduct additional access practices assessments of the Mayor's Office in the future.

PLANNING, PROPERTY AND DEVELOPMENT

2011 AUDIT

In the 2011 audit, section 12 compliance and the adequacy of the contents of the FIPPA files were identified as weaknesses. Planning, Property and Development's average in 2011 for section 12 compliance and adequacy of contents was 76%.

The following recommendations were made in 2011 to Planning, Property and Development to address the weaknesses that were identified:

It is recommended that Planning, Property and Development comply with the required contents of a response letter under section 12 of FIPPA, for each request.

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that Planning, Property and Development adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.



2012 REASSESSMENT FINDINGS FOR PLANNING, PROPERTY AND DEVELOPMENT**7 FIPPA FILES WERE REVIEWED**

- **Compliance with Section 12 - 100% of responses were compliant with section 12 (88% of responses were compliant in 2011).**
- Compliance with Time Requirements - Not reassessed because a recommendation relating to time requirements was not made in 2011.
- Adequacy of Records Preparation - Not reassessed because a recommendation relating to records preparation was not made in 2011.
- **Adequacy of the Contents of the FIPPA File - 100% of the files had adequate contents (63% of files had adequate contents in 2011).**

Comparison of 2011 and 2012 Findings for Planning, Property and Development

	2011	2012
COMPLIANCE WITH SECTION 12	88%	100%
ADEQUACY OF CONTENTS OF FILE	63%	100%
AVERAGE	76%	100%

OBSERVATIONS

- Strengths that were observed in the 2011 audit continued to be in evidence in 2012: communication with applicants to clarify, resolve, and satisfy requests is productive and constructive; response letters provide helpful and contextual information and comprehensive reasons and explanations about why access is being refused; and, the department seems focused on providing good customer service.
- The 2012 reassessment determined that there was overall improvement in Planning, Property and Development's performance in both of the components that were reassessed and that recommendations made by the Ombudsman in 2011 were effectively implemented.
- The 2011 reassessment noted that Planning, Property and Development is using a file tracking sheet to document activity/decisions and dates of key events or actions taken.

PUBLIC WORKS**2011 AUDIT**

In the 2011 audit, the adequacy of the contents of the FIPPA files and the adequacy of records preparation were identified as weaknesses. Public Works's average in 2011 for the adequacy of the contents of the FIPPA files and the adequacy of records preparation was 79%.

The following recommendations were made in 2011 to Public Works to address the weaknesses that were identified:

It is recommended that effective upon notifying the Ombudsman of the acceptance of this recommendation, that Public Works adopt the guideline, "The Standard Contents of a FIPPA File" as its standard for FIPPA file documentation.



It is recommended that Public Works conduct a line-by-line review of each record responsive to an Application for Access.

2012 REASSESSMENT FINDINGS FOR PUBLIC WORKS

10 FIPPA FILES WERE REVIEWED

- Compliance with Section 12 - Not reassessed because a recommendation relating to section 12 was not made in 2011.
- Compliance with Time Requirements - Not reassessed because a recommendation relating to time requirements was not made in 2011.
- **Adequacy of Records Preparation - 100% of the files had adequate records preparation (80% of the files had adequate records preparation in 2011)**
- **Adequacy of the Contents of the FIPPA File - 100% of the files had adequate contents (78% of the files had adequate contents in 2011).**

Comparison of 2011 and 2012 Findings for Public Works

	2011	2012
ADEQUACY OF RECORDS PREP	80%	100%
ADEQUACY OF CONTENTS OF FILE	78%	100%
AVERAGE	79%	100%

OBSERVATIONS

- Strengths that were observed in the 2011 assessment continued to be in evidence in 2012: considerable effort is made to assist applicants through positive and constructive contact and actions.
- The 2012 reassessment determined that there was overall improvement in Public Works's performance in both components that were reassessed and that the recommendations made by the Ombudsman in 2011 were effectively implemented.
- The 2012 reassessment noted that Public Works is actively using a FIPPA file tracking sheet (a good practice that was begun in 2011) to document activity/decisions and record dates of key events or actions taken including details of fee estimate calculations.

WATER AND WASTE

2011 AUDIT

In the 2011 audit, section 12 compliance was identified as a weakness. Water and Waste's average in 2011 for section 12 compliance was 56%.

The following recommendation was made in 2011 to Water and Waste to address the weakness that was identified:

It is recommended that Water and Waste comply with the required contents of a response letter under section 12 of FIPPA, for each request.

2012 REASSESSMENT FINDINGS FOR WATER AND WASTE

7 FIPPA FILES WERE REVIEWED

- **Compliance with Section 12 - 86% of responses were compliant with section 12: 6 responses were compliant and 1 response was not compliant (56% of responses were compliant in 2011).**
- Compliance with Time Requirements - Not reassessed because a recommendation relating to time requirements was not made in 2011.
- Adequacy of Records Preparation - Not reassessed because a recommendation relating to adequacy of records preparation was not made in 2011.
- Adequacy of the Contents of the FIPPA File - Not reassessed because a recommendation relating to adequacy of contents was not made in 2011.

Comparison of 2011 and 2012 Findings for Water and Waste

	2011	2012
COMPLIANCE WITH SECTION 12	56%	86%
AVERAGE	56%	86%

OBSERVATIONS

- Strengths that were observed in the 2011 audit continued to be in evidence in 2012: communication with applicants to clarify, resolve, and satisfy requests is productive and constructive; and there is a definite focus to try to provide applicants with as much information and assistance as possible.
- The 2012 reassessment determined that there was improvement in section 12 compliance. Although one response was not compliant with section 12, we are satisfied with the effort made by the department in implementing the recommendation made by the Ombudsman in 2011.

Going forward, Water and Waste should ensure that all responses to applicants are compliant with section 12 of FIPPA.

APPENDIX A

Guideline on Time Frames for Processing a FIPPA Request

Time Frames (Working Days)	Guidelines
Day 1 - Day 2	<ul style="list-style-type: none"> ➤ the request is received and reviewed ➤ the applicant is contacted as necessary ➤ the request is dated/date stamped ➤ the request is numbered ➤ the due date is calculated ➤ the request is logged in to the electronic tracking system ➤ a FIPPA file is set up (paper/electronic) ➤ the Manitoba Culture, Heritage and Tourism FIPPA reporting form is completed and faxed (if required) ➤ an acknowledgement letter is sent to the applicant ➤ a notification email is sent to the area that would likely have the responsive records along with a date by which the responsive records are due to the Coordinator/Officer
Day 3 - Day 7	<ul style="list-style-type: none"> ➤ the records search is undertaken ➤ by the end of day 7, the responsive records are provided to the Coordinator/Officer with the information considered harmful to release marked and pages tagged with an explanation of the harm
Day 8 - Day 10	<ul style="list-style-type: none"> ➤ a preliminary assessment of the responsive records is done ➤ the pages are numbered if necessary ➤ copies are made as needed ➤ determine if time extension is warranted ➤ determine if third parties need to be notified ➤ consult with staff as necessary ➤ determine if a fee estimate is required and if so, prepare it and send to applicant
Day 11	<ul style="list-style-type: none"> ➤ create and complete an index of the records that includes the FIPPA file number, a description of the type of record, the date of each record, the number of pages, the possible exceptions that might be applicable to part or to all of the records, and any comments
Day 12 - Day 16	<ul style="list-style-type: none"> ➤ conduct a line-by-line review of the records ➤ consult with staff as necessary ➤ consult with third parties as necessary ➤ obtain a legal opinion or comments as necessary ➤ make copies as necessary ➤ sever records if necessary and note the exceptions on the record ➤ note the exceptions and the reasons for their application on the index of the records ➤ prepare the draft response to the applicant
Day 17 - Day 18	<ul style="list-style-type: none"> ➤ final consultations and discussions within the public body, as necessary ➤ at the end of day 18, all decisions are finalized
Day 19 - Day 20	<ul style="list-style-type: none"> ➤ the response is finalized and sent out to the applicant

APPENDIX B

The Standard Contents of a FIPPA File

- the assigned FIPPA file number;
- a tracking document that tracks the date with the actions taken on the file;
- the Application for Access and the date it was received;
- all correspondence and communications, including emails, faxes sent (with transmission reports and covering sheets) and faxes received, that are related to the file;
- notes with dates of the substance of consultations (emails and attachments, faxes, telephone conversations, meetings) with the applicant, third parties, public body staff, another public body's staff, and legal counsel;
- legal advice and legal opinions, if applicable;
- if fees applied, notes about how the fees were calculated including the activities for which a fee was charged, how much time was estimated for each chargeable activity, the basis for deciding that the amounts of time are reasonable in relation to the request, and, the amount of the fee;
- if an extension was taken, notes about why a specific provision under section 15 applies;
- notes about the search for the records indicating the locations searched, especially where the conclusion is that records do not exist or cannot be located;
- notes of why and how each exception applies and who made the decision;
- where applicable, notes of the consideration given to any limits to the exception (often identified as exceptions to the exception);
- for discretionary exceptions, notes about the reasons why the choice was made to not release;
- a copy of the records, and if information is withheld, a copy of the severed records with the applicable exceptions placed beside the withheld information, and the unsevered records;
- a copy of the response letter to the applicant; and,
- any correspondence, notes and documents relating to a complaint to the Ombudsman or to a review by the Information and Privacy Adjudicator, if requested by the Ombudsman.