



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
— for —
British Columbia

BUDGET PROPOSAL

Fiscal Years 2009-2010
through 2011-2012

Presented to the
Select Standing Committee on Finance and Government Services
Legislative Assembly of British Columbia

December 3, 2008

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COMMISSIONER'S STATEMENT

This budget proposal to the Select Standing Committee on Finance and Government Services ("Committee") is for the fiscal years 2009-2010 through 2011-2012.

My office's current budget has to be viewed in light of the broad scope of my statutory duties under the *Freedom of Information and Protection of Privacy Act* ("FIPPA), the *Personal Information Protection Act* ("PIPA") and the *Lobbyists Registration Act* ("LRA"). This significant breadth of statutory responsibility for regulation of extensive aspects of both public and private sectors, and ongoing increases in workload, continue to challenge my ability to provide effective, efficient and responsive service to British Columbians and public bodies.

Against this backdrop, this submission requests a budget increase of \$404,000 and 2 FTEs in fiscal year 2009-2010 to meet service requirements and increased costs beyond my control. Fully 74% of the requested increase is caused by factors beyond my control:

- Of the requested increase, 36% is the direct result of salary increases, and associated benefits costs, that are beyond my control. The increases stem from the across-the-board provincial public sector salary increase awarded two years ago and the statutorily-driven increase in my salary and associated benefits costs;
- Of the requested increase, 38% stems from increases in the charge made by the Office of the Ombudsman for the corporate, human resource and other administrative services it provides to my office under our shared services arrangements. The annual charge is calculated on a per-capita basis and the increase this year reflects the current staffing count for my office. It also effects a rebalancing of the costs among my office, the Office of the Ombudsman, Office of the Police Complaint Commissioner and Office of the Merit Commissioner.

A further component of the requested increase consists of ordinary-course increases in operating costs and accommodation costs, which are passed on to us.

The portion of the requested increase that flows from my assessment of needs would staff a total of 2 new FTEs, as follows:

- I am the Registrar of Lobbyists as well as Information and Privacy Commissioner. As detailed below, in view of the increased workload and demands of this program, a modest increase of 0.5 of an FTE is necessary in order to properly administer what has become an increasingly busy program. The demands of this role are almost certain to escalate with enactment of enforcement powers under new lobbyists registration legislation the government has said it will introduce. Administration of this program now requires, I have determined, full-time attention; the time has come to create a full-time position of Deputy Registrar. Some of the funding for this

position is available from within the existing LRA budget allocation. I am therefore requesting an increase equivalent to 0.5 of an FTE in order to, with existing budget funds, create the position of Deputy Registrar and staff it.

- We operate without the benefit of any specialized policy, public education, research or expertise in new technologies. This limits our ability to fully discharge our broad statutory mandate at a time when our privacy expertise is much in demand. Government's massive push for e-health systems and programs for improved sharing of personal information, for example, present significant demands on our time in analyzing and commenting on privacy implications of such initiatives. This submission therefore requests funding for one full-time Portfolio Officer to, for the first time, fulfill these important functions. Concentrating this work in a single position will free up other Portfolio Officers to focus on their investigative work, thus improving our ability to serve the public and meet our statutory obligations, as indicated below.
- This submission also seeks funding for 0.5 of an FTE to make an existing half-time Adjudicator position a full-time position. This is necessary to ensure timeliness in the issuance of decisions under FIPPA and PIPA.

Let me now highlight a few key features of our operations so far this fiscal year.

In fiscal year 2007-2008, we opened 2,235 new files, excluding the 1,011 general requests for information or assistance received that year. These figures include work on access to information appeals and complaints, privacy complaints, investigations, requests for time extensions from public bodies and from the public, policy and legislation consultations, stakeholder communications, public education and speaking activities, creation of support tools, media work and more. These figures illustrate the broad scope of our work and thus measure the extent of our work more meaningfully than would a narrow focus on only the numbers of formal appeals and complaints. Excluding requests for information, since April 1, 2008 we have opened 1,373 files and at this time we forecast this year's caseload is likely to reach just over 2,100.

This is the fourth year in a row for which I am reporting a backlog of cases. At the time of writing, there were 199 files waiting to be assigned to a Portfolio Officer for investigation and mediation. This reflects the fact that, as regards aspects of our oversight work, we continue not to meet statutory timelines. This means we are not serving the public, public bodies or organizations in as timely a fashion as we should be.

Work is underway on building a new online registration system to allow us to properly administer and monitor activity under the *Lobbyists Registration Act* and further details about our work under this statute are found in the body of this submission.

In closing, it is significant that, in 2006, the Committee, in explicitly acknowledging our need for adequate resources, found that my office is—in light of evidence I then presented of workloads of other commissioner's offices across Canada—a "lean organization". As this submission shows, we continue to work hard to provide

cost-effective and high-quality services to citizens, consumers, public bodies and organizations. For the reasons given below, however, we are not, despite the Committee's welcome funding recommendations since 2006, where we need to be in terms of staffing. I ask the Committee to approve this request, which is made after careful consideration—especially given current economic circumstances—and which I believe to be prudent and responsible.

December 3, 2008

ORIGINAL SIGNED BY

David Loukidelis
Information and Privacy Commissioner
for British Columbia

A. CURRENT STATUS

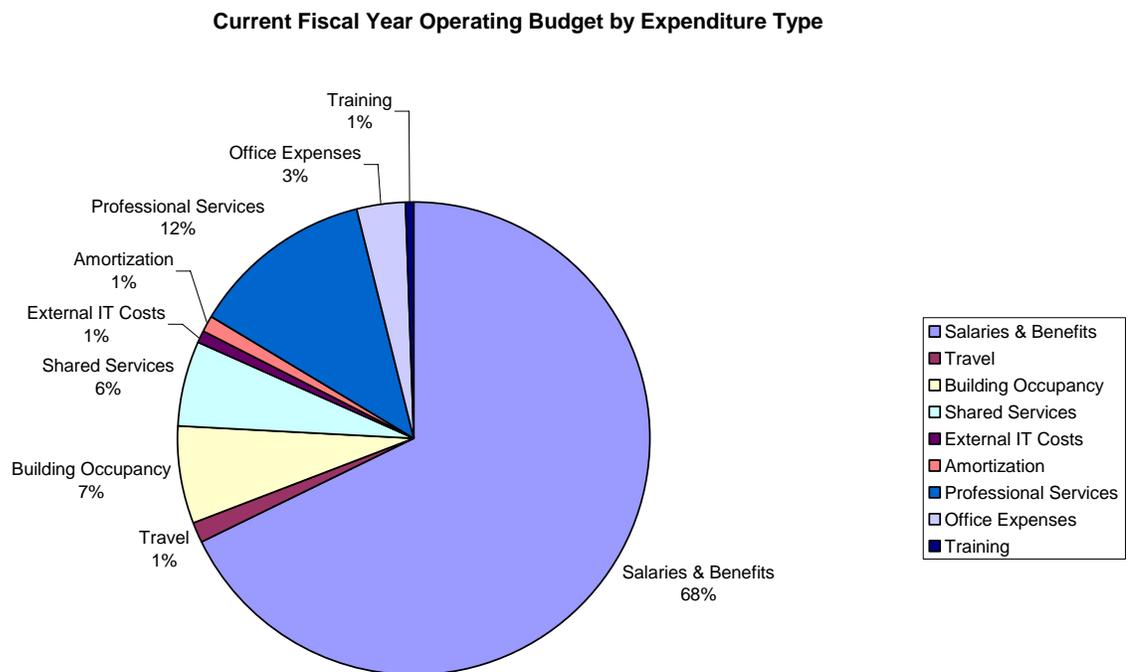
1. Resources

The OIPC currently has 24 FTEs and a budget of \$3,603,000 million. These resources are used to provide the services mandated under the *Freedom of Information and Protection of Privacy Act* (“FIPPA”), the *Personal Information Protection Act (PIPA)*, and the *Lobbyists Registration Act* (“LRA”). (The appendix to this submission provides a general description of the nature of the OIPC’s three business areas.)

2. Financial Status – Current Fiscal Year

The Committee’s December 2007 report recommended an operating budget of \$3,603,000, a capital budget of \$45,000 and staffing of 24 FTEs for fiscal year 2008-2009.

At this time, the OIPC anticipates being able to meet its budget target for the current fiscal year. The following chart illustrates allocation of the current operating budget by type of expenditure:



STATEMENT OF OPERATIONS

	2007/08 Budget \$	2007/08 Actual \$	2008/09 Budget \$
Funding			
Voted Appropriation	2,952,000	2,930,000	3,603,000
Other Appropriations			
Total	2,952,000	2,930,000	3,603,000
Expenses			
Salaries	1,828,000	1,736,212	2,184,000
Employee Benefits	456,000	389,510	476,000
Travel	45,000	40,804	45,000
Centralized Management Support Services	35,000	223,987	270,000
Professional Services	240,000	397,300	450,000
Information Systems	25,000	55,235	25,000
Office and Business Expenses	100,000	57,242	80,000
Information, Advertising, and Publications	10,000	-	10,000
Statutory Advertising and Publications	10,000	4,931	10,000
Utilities, Materials and Supplies	13,000	6,488	13,000
Amortization	45,000	17,934	45,000
Building Occupancy	150,000		
Internal Recoveries	(4,000)	-	(4,000)
External Recoveries	(1,000)	-	(1,000)
Total Expenses	2,952,000	2,929,643	3,603,000
Capital Budget			
Information Systems & Furniture & Equipment	60,000	28,329	60,000
Tenant Improvements			0
Total Capital	60,000	28,329	60,000

3. Progress on Major Commitments and Performance Measures***Freedom of Information and Protection of Privacy Act***

Last year, the Committee approved funding for a full-time Manager of Intake. We have not been successful to date in finding a suitable candidate, despite running two public competitions for the position. Pending a successful competition for this position—which will be run—the money allocated for this position is being used to add a temporary

fourth Intake Officer to deal with the increasing workload of the Intake Team. Also pending a successful competition, the Intake Unit is being supervised by a Senior Portfolio Officer, in addition to his other duties, which include an active investigative file caseload.

The workload of the Intake Team is of concern looking forward to the rest of this fiscal year and beyond. Their work involves reviewing files to ensure receipt of all necessary documentation, determining jurisdiction, clarifying issues with the parties, sending out formal notices and referring complainants to other agencies or processes to deal with issues outside our mandate. The number of requests for time extensions climbed to 351 last year, a 45% increase from 2006/07. The high workload has had a negative effect on our ability to open files promptly. Although we internally strive to open files within two weeks of receipt, for assignment to a Portfolio Officer through the Early Intervention Process, at the time of writing, the average time for our Intake Team to open a file is six weeks. This is unacceptable from a customer service perspective and in view of the statutory timelines that the OIPC must meet.

The table below shows the trends in the types of files being opened under FIPPA.

File Type	Fiscal 2005/06	Fiscal 2006/07	Fiscal 2007/08	Fiscal 2008/09 Projected
Appeals (requests for review)	558	538	639	562
Complaints	347	355	343	347
Requests for Time Extensions	81	242	351	266
Policy Consultations	123	106	94	105
Review of Bills	39	51	43	63
Speeches	49	48	44	46
Privacy Breach Reviews	22	56	68	58
Others	289	321	341	363
Total	1,508	1,717	1923	1810
General Requests for information & Assistance	1082	568	675	544
Total All FIPPA Files	2590	2285	2598	2354

In addition to the kinds of work reported above, the following special activities contributed significantly to the OIPC's workload this fiscal year under FIPPA:

- Extensive work analyzing and commenting on the *E-Health (Personal Health Information Access and Protection of Privacy) Act* (“E-Health Act”) and being consulted by Ministry of Health Services staff on evolving electronic health information systems and policies;
- Preparing for significant new duties under FIPPA, resulting from the E-Health Act, in approving research use of personal health information for research recruitment;
- It is estimated that there will be at least several dozen, and over time perhaps considerably more, of these applications each year. These will require careful assessment and approval by the OIPC. The time to be invested in this function cannot be more precisely quantified at this time, but the Commissioner anticipates that there will be a considerable amount of time invested in staff resources devoted to this specialized function, particularly in the early years as the number of applications increases over time.
- Participating in pan-Canadian consultations and discussions on e-health system design and implementation;
- Worked with the Office of the Information and Privacy Commissioner of Ontario, in consultation with the BC Council of University Presidents, to prepare and issue guidance for universities and colleges on disclosure of personal information of students where their health or safety is at risk;
- Worked with legal counsel on several judicial review and civil suit proceedings involving the OIPC.

Beginning in February 2007, the OIPC implemented a new case management system for review and complaint files, known as the “early intervention process”. This new case management approach promises two important benefits. First, the investigative team is now averaging 13.2 weeks to close access appeals (down from almost 15 weeks two years ago) and is averaging 8.8 weeks to close complaints (down from 20 weeks two years ago)¹. Second, while there are now 199 files awaiting assignment to a Portfolio Officer, every one of those files is reviewed at a very early stage by an experienced Portfolio Officer, known as the Early Intervention Officer. The Early Intervention Officer manages this caseload, collects evidence, and assesses issues and settlement opportunities, within weeks of the initial filing of any appeal or complaint. Through the Early Intervention Officer, mediation is available to all parties while the file awaits assignment to a Portfolio Officer.

The reason for the case backlog now existing in the OIPC is that, consistently, an average of 10 files per month more go into the early intervention process than we are able to assign out to an investigator. The early intervention process has been in place for 21 months and a backlog of almost 200 files is only slightly less than anticipated.

¹ The investigative team processing time begins when the file is assigned to a Portfolio Officer after being processed through the early intervention process.

Experienced Portfolio Officers close an average of 10 files per month. Therefore, one new Portfolio Officer would allow us to keep the backlog from growing and meet the current workload demands.

We can find that added Portfolio Officer position by adding an officer to do policy advice, legislative review, outreach and communications work, thus freeing up time currently spent on these activities by existing Portfolio Officers. Appeals and complaints form a large proportion of the overall OIPC workload. Policy advice and recommendations, legislative reviews, system reviews and other similar types of files are extremely labour-intensive and divert resources away from the investigation and mediation of reviews and complaints. With one new Portfolio Officer, we could assign these types of files to a single individual, who would work with the Commissioner and Executive Director. This would free up time of the existing investigators to take on more of their caseload from the early intervention process and so deal with the backlog of complaint and review files (under FIPPA primarily, but also under PIPA). This would have the added benefit of ensuring a consistent approach and the acquisition of experience necessary to process these often complex matters in an efficient and high-quality manner. Further, the new role in approving research contact requests, described above, will require further staff time, so addition of a new Portfolio Officer position will help address this new area of responsibility.

The additional Adjudicator the Committee approved last year has had a positive effect on the number of hearings awaiting decision. As of October 31, 2008, the Adjudication Unit is currently working on 60 hearings (46 closed, 14 pending), down 14% from last year. This number, while smaller, remains too high for the number of adjudicators to ensure decisions are issued in a timely fashion. Access delayed is access denied and this is a real concern in our case.

Personal Information Protection Act

The table below shows the OIPC's workload trends under PIPA.

File Type	Fiscal 2005/06	Fiscal 2006/07	Fiscal 2007/08	Fiscal 2008/09 Projected
Appeals, complaints, Investigations, policy or issue consultations	345	326	302	268
Requests for Information	516	310	334	436
Total	861	636	636	704

In addition to the routine files, the following activities contributed materially to the OIPC's workload last fiscal year under PIPA:

- Made submissions to the all-party legislative committee on the statutory review of PIPA;
- Worked with the Office of the Privacy Commissioner of Canada and Office of the Information and Privacy Commissioner of Alberta in drafting guidelines for covert video surveillance;
- Drafted an information security checklist for organizations to assess the quality and any weaknesses in their information security practices and methods;
- Worked with the Office of the Privacy Commissioner of Canada and Office of the Information and Privacy Commissioner of Alberta in drafting guidance on collection, use and disclosure of driver's licence information by retailers and others;
- Completed collaborative consultation and drafting of FAQs for strata corporations;
- Collaborated with the Office of the Privacy Commissioner of Canada and other provincial commissioner's offices in creating and publicizing issues concerning the protection of children's privacy in the online environment;
- Organized and co-hosted with the Alberta OIPC, in Calgary, the third annual PIPA conference for businesses and non-profit organizations, attended by some 225 individuals;
- Worked with the Identity Theft Forum hosted by BCIT to create tips for businesses to better manage personal information to reduce the threat of identity theft;
- Provided input and content concerning access and privacy considerations for the security officer's training program offered by the Justice Institute.

Lobbyists Registration Act

It has been a busy and eventful year for the Office of the Registrar of Lobbyists. As of October 31, 2008, there were 414 registered lobbyists. Last year there were only 312, representing a more than 33% increase in one year. The number of registered lobbyists is projected to rise to 500 by the end of the year. This is the highest volume since the LRA was passed six years ago. Of the registrants, 26% are in-house (commercial) lobbyists, 43% are in-house (not-for-profit) lobbyists and 31% are consultant lobbyists.²

In the first five years of the LRA, we received one allegation that an individual was lobbying without registering as a lobbyist. In the last eighteen months, we have

² This number does not reflect the actual number of active lobbyists, because the system does not include in-house lobbyists for non-profit organizations in the total. The system only records the person who is legally required to register them—the "senior officer".

received an additional ten complaints. Three of those have been resolved, five remain under review, and two have been dismissed due to the refusal by the individuals to cooperate with our inquiries. The Registrar is not accepting or inquiring into complaints about alleged failures to register under the LRA. Even with consent, the Registrar's office does not have the resources to take on such activities at this time. In the meantime, over the next six to twelve months, in an effort to promote province-wide compliance, we intend to:

- Complete analysis of the constraints of the LRA and provide recommendations for reform;
- Update all online guides and FAQs;
- Issue interpretation bulletins to clarify registration and reporting requirements;
- Conduct compliance seminars;
- Conduct educational seminars with agencies that employ public office holders;
- Increase verification activities for new and updated filings;
- Work with and communicate with other registrars of lobbyists to share best practices and find collaborative solutions to common issues.

Last year, the Committee provided one-time funding for the design and building of a new online lobbyist registration system, with the agreement of the provincial government that any funding shortfall would be met by funding from the government. Starting in the early spring and continuing into this fall, staff worked with the Ministry of Attorney General to produce a detailed set of business requirements for the registration system. This formed the basis for an RFP issued in September. The successful proponent has been selected and work is underway, with an expected go-live date of June 2009.

When the LRA was first passed, it was envisioned to be an “honour system” which required very little hands-on administration and the budget that has been allocated to this program over the years has reflected that assumption. This money is intended to cover salaries and associated costs for time spent by the Registrar, the Executive Director, and support staff, on LRA matters. This budget also covers legal costs, travel costs for meetings, training and education.

In view of the increased workload and demands on all staff—notably the OIPC's Executive Director—the present budget is no longer adequate to administer what has become an increasingly busy public program, the demands of which will escalate with the anticipated introduction of new legislation, which is likely to include enforcement powers. The time spent by the Executive Director, who essentially acts as Deputy Registrar, providing registration advice to lobbyists, reviewing complaints, developing IT requirements, handling media calls, and liaising with professional counterparts has exceeded 50% of her time in the recent past.

Because of this, and given the Registrar's plan to increase and maintain registration compliance rates, the lobbyists registration program requires full-time attention. The time has come to create a full-time position of Deputy Registrar. This position would be responsible for amongst other things, monitoring compliance, providing advice to organizations, businesses, lobbyists and public office holders, developing and

delivering training and awareness programs, anticipating and addressing emerging issues, ensuring the public registry is satisfying the legislative transparency objectives and working to harmonize, wherever possible, oversight approaches with other offices across the country. The funding for this position would come from the existing budget allocation together with an increase in funding equal to a one-half FTE.

B. SERVICE PLAN

1. Priorities for Fiscal 2009-2010

Investigations, Audit and Adjudication

- Recent changes to the E-Health Act create additional oversight responsibilities for the OIPC. Work collaboratively with the Auditor General to audit select health care case management systems;
- Research compliance data and issue report cards on Ministry compliance with FIPPA timelines;
- Reduce the backlog of appeals in mediation and investigation;
- Reduce the backlog of adjudication decisions and orders;
- Consulting with and commenting on the developing surveillance and security plans for the 2010 Olympics will mean significant additional work for the OIPC;
- Manage increased access requests resulting from the upcoming election.

Public Education and Stakeholder Support

- Research, develop and publish the following compliance tools:
 - Access and Privacy Guidelines for Strata Corporations;
 - Access and Privacy Best Practices for Administrative Tribunals;
 - Information Security Checklist for Organizations and Public Bodies;
 - Guidelines for the Collection, Use, Disclosure and Retention of Driver's License Data
- Consult with the non-profit sector with a view to developing sector-specific tools for privacy compliance;
- As part of the OIPC's specific research and education mandate, organize and hold events across British Columbia for the annual Right to Know Week and Right to Privacy Day;
- Update FIPPA and PIPPA policies and procedures material;
- Conduct province-wide FIPPA training;

- Work with the College of Physicians and Surgeons and BC Medical Association to update privacy resources for physicians in light of PITO and other e-health developments;
- Consult with the Ministry of Health Services on privacy and security matters as the electronic health record rolls out province-wide, including reviewing and commenting on associated enactments such as designation orders.

Lobbyists Registration Act

- Complete analysis of the constraints of the current *Lobbyist Registration Act* and complete recommendations for reform;
- Work with the successful IT service provider in building a new, easier to use online registration system;
- Update all online guides and FAQ's;
- Issue interpretation bulletins to clarify reporting requirements;
- Conduct province-wide compliance seminars;
- Conduct educational seminars with agencies that employ public office holders;
- Increase verification activities of new and updated filings;
- Work with and communicate with other Registrars to share best practices and find collaborative solutions to common issues.

2. Budget Request Summary

The Committee is requested to approve an operating budget of \$4,007,000, a capital budget of \$45,000 and staffing of 26 FTEs for fiscal year 2009-2010.

Reflecting the shared accommodation costs of the previously approved building proposal, the Committee is requested to approve an operating budget of \$4,433,000 and a capital budget of \$791,000 for fiscal year 2010-2011. For fiscal year 2011-2012, a similar operating budget of \$4,433,000 is requested, but the capital budget can revert to \$45,000.

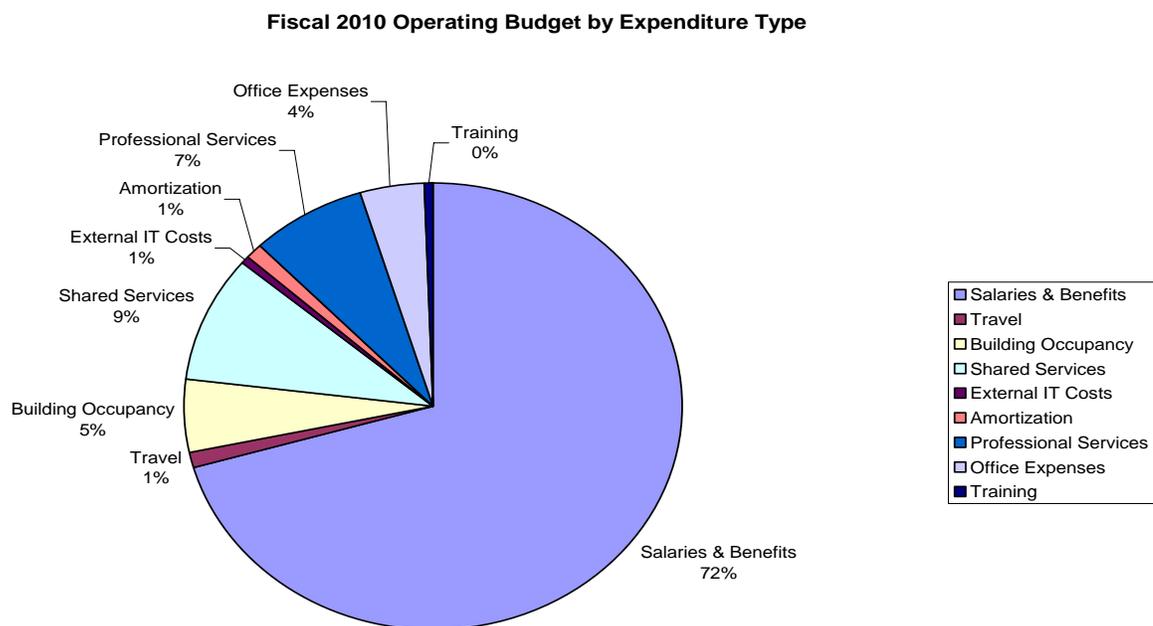
The following table summarizes this:

	2008/09 Budget	2009/10 Estimates	2010/11 Plan	2011/12 Plan
Core Businesses				
Operating Expenses (\$000)				
Public Sector Information & Privacy	2,255	2,518	2,813	2,813
Lobbyists Registration	150	238	266	266
Private Sector Privacy	835	885	988	988
Rebuild of Lobbyists Registration System	150	0	0	0
Shared Services Costs	213	366	366	366
TOTAL	3,603	4,007	4,433	4,433
Full-time Equivalents (FTEs)				
Public Sector Information & Privacy	17.5	19	19	19
Lobbyists Registration	1.5	2	2	2
Private Sector Privacy	5	5	5	5
TOTAL	24	26	26	26
Capital Expenditures (Consolidated Revenue Fund) (\$000)				
Information systems, furniture & equipment	60	45	150	45
Tenant Improvements	0	0	641	0
Total	60	45	791	45

Key Features and Service Consequences

- The vast majority of the increased funding being sought stems from two factors beyond the OIPC's control. First, of the requested increase, 38% (\$153,000) stems from increases in the charge made by the Office of the Ombudsman for corporate, human resource, payroll, financial and information technology systems and administrative services support. The increase reflects a rebalancing of the costs between the four offices being supported under this arrangement.
- Second, fully 36% (\$145,000) of the increase is the direct result of salary increases, and associated benefits costs, which are beyond the OIPC's control. The increases stem from across-the-board provincial public sector salary increases, earned increments, and the statutorily-driven increase in the Commissioner's salary and, in each case, associated benefits costs.

- Funding at the requested level will allow creation of a full-time, now half-time, Adjudicator and a new full-time Portfolio Officer having policy analysis and reporting, stakeholder communications and outreach functions—all firsts for the OIPC. This will enable our investigators to focus on handling complaint files, thus easing our challenges with caseloads and timeliness. It will also help improve the efficiency, quality and timeliness of our policy, research and education work.
- Funding at the requested level will allow creation of a full-time Deputy Registrar of Lobbyists, who will be dedicated to oversight of the program, as detailed above. This will address the increased workload in that area, which is almost certain to grow with the advent of new legislation promised by government.
- Unless there is an unanticipated increase in the need for legal services—for example, due to increases in the numbers of judicial review proceedings commenced against the OIPC—no additional funds will be required for legal services.
- The funding request assumes continuation of shared office space and services with the Office of the Ombudsman, the Office of the Police Complaint Commissioner and the Office of the Merit Commissioner.



3. Budget Details

The following table provides a detailed budget analysis by STOB (Standard Object of Budgeting):

STOB	DESCRIPTION	2008/09 Budget	2009/10 Estimates	Change	2010/11 Plan	2011/12 Plan
50	SALARIES	\$ 1,932,000	\$ 2,388,000	\$ 456,000	\$ 2,388,000	\$2,388,000
51	SUPPLEMENTARY SALARY	\$ 5,000	\$ 5,000	\$ -	\$ 5,000	\$ 5,000
52	EMPLOYEE BENEFITS	\$ 476,000	\$ 549,000	\$ 73,000	\$ 551,000	\$ 551,000
54	OFFICER OF LEG.SALARY	\$ 247,000	\$ 253,000	\$ 6,000	\$ 259,000	\$ 259,000
57	TRAVEL	\$ 45,000	\$ 45,000	\$ -	\$ 45,000	\$ 45,000
59	CENTRAL MGM'T SUP SERVICES	\$ 270,000	\$ 260,000	\$ (10,000)	\$ 53,000	\$ 53,000
60	CONTRACT SERVICES	\$ 450,000	\$ 300,000	\$ 150,000)	\$ 300,000	\$ 300,000
63	DATA & WORD PROCESSING	\$ 25,000	\$ 44,000	\$ 19,000	\$ 44,000	\$ 44,000
65	OFFICE EXPENSES	\$ 80,000	\$ 90,000	\$ 10,000	\$ 90,000	\$ 90,000
67	PUBLIC INFORMATION	\$ 10,000	\$ 10,000	\$ -	\$ 10,000	\$ 10,000
68	STATUTORY REPORTS	\$ 10,000	\$ 10,000	\$ -	\$ 10,000	\$ 10,000
69	UTILITIES, MATERIALS, SUPPLIES	\$ 13,000	\$ 13,000	\$ -	\$ 13,000	\$ 13,000
70	OPERATING EQPT & VEHICLES			\$ -		
73	AMORTIZATION EXPENSE	\$ 45,000	\$ 45,000	\$ -	\$ 195,000	\$ 195,000
75	BUILDING OCCUPANCY	\$ -	\$ -	\$ -	\$ 475,000	\$ 475,000
88	RECOVERIES	\$ (3,000)	\$ (3,000)	\$ -	\$ (3,000)	\$ (3,000)
89	RECOVERIES	\$ (1,000)	\$ (1,000)	\$ -	\$ (1,000)	\$ (1,000)
90	RECOVERIES	\$ (1,000)	\$ (1,000)	\$ -	\$ (1,000)	\$ (1,000)
TOTAL		\$ 3,603,000	\$ 4,007,000	\$ 404,000	\$ 4,433,000	\$4,433,000
	CAPITAL BUDGET					
Capital	Information systems, furniture & equipment	\$ 60,000	\$ 45,000	\$ (15,000)	\$ 150,000	\$ 45,000
	Tenant Improvements	\$ -	\$ -	\$ -	\$ 641,000	
	Total Capital	\$ 60,000	\$ 45,000	\$ (15,000)	\$ 791,000	\$ 45,000

APPENDIX

DESCRIPTION OF THE OIPC's WORK

1. Mandate under the *Freedom of Information and Protection of Privacy Act*

The public policy goals at FIPPA's core are to make public bodies more accountable to the public they serve and to protect personal privacy. Section 2(1) of the Act explicitly states that one of the purposes of FIPPA is to "make public bodies more accountable to the public...by giving the public a right of access to records". The central importance of freedom of information for good government has been confirmed on many occasions, as the following passage from the Supreme Court of Canada decision in *Dagg*³ illustrates:

As society has become more complex, governments have developed increasingly elaborate bureaucratic structures to deal with social problems. The more governmental power becomes diffused through administrative agencies, however, the less traditional forms of political accountability, such as elections and the principle of ministerial responsibility, are able to ensure that citizens retain effective control over those that govern them....

The overarching purpose of access to information legislation, then, is to facilitate democracy. It does so in two related ways. It helps to ensure first, that citizens have the information required to participate meaningfully in the democratic process, and secondly, that politicians and bureaucrats remain accountable to the citizenry...

In a classic article, Professor Donald Rowat explains:

Parliament and the public cannot hope to call the Government to account without an adequate knowledge of what is going on; nor can they hope to participate in the decision-making process and contribute their talents to the formation of policy and legislation if that process is hidden from view....

Here in British Columbia, a 1991 law reform report by the BC Freedom of Information and Privacy Association put it this way:

Information about how government decisions have been made, and why, must also be available on the ground of political accountability. Government and the information held by it are paid for by taxpayers. Many government agencies, and most individuals and interest groups, welcome a degree of public participation in decision-making. But meaningful and efficient participation depends also on access to relevant information held by government in its broad sense....

Access to information will gradually enhance the credibility of government with the public. It will justify public trust and the perception of government integrity and

³ *Dagg v. Canada (Minister of Finance)*, [1997] 2 S.C.R. 403, at paras. 60 and 61 (internal citations omitted).

accountability. The public will perceive government decision-makers as administering in a fair and open manner.

Protection of privacy is of fundamental importance to individual development and the health of our society. Simon Davies, an internationally known privacy expert, has written:⁴

People who have no rights of privacy are vulnerable to limitless intrusions by governments, corporations, or anyone else who chooses to interfere in your personal affairs. Imagine a world where government had an unfettered right to demand information from you, or to remove money from your bank account, or even to enter your house. The tragic history of many of the world's countries shows us that a nation denied the right of privacy is invariably denied all other freedoms and rights.

In order to receive public goods and services, citizens must provide a certain amount of personal information to the government. The scope and sensitivity of the personal information that must be produced in exchange for the service varies, depending on the service. For example, an individual will be required to disclose information about her or his health and family when seeking health care; educational and income information when seeking a university education; family status and income information when seeking financial assistance with medication; eyesight, height and weight information when applying for a driver's license.

FIPPA deals with the privacy of such information—what the Supreme Court of Canada has called “informational privacy”:⁵

...[T]here is privacy in relation to information. This too is based on the notion of the dignity and integrity of the individual. As the [Federal Task Force] put it: “[The] notion of [informational] privacy derives from the assumption that all information about a person is in a fundamental way his own, for him to communicate or retain for himself as he sees fit.” In modern society, especially, retention of information about oneself is extremely important. We may, for one reason or another, wish or be compelled to reveal such information, but situations abound where the reasonable expectations of the individual that the information shall remain confidential to the persons to whom, and restricted to the purposes for which it is divulged, must be protected. Governments at all levels have in recent years recognized this and have devised rules and regulations to restrict the uses of information collected by them to those for which it was obtained; see, for example, the [federal] *Privacy Act*.

Using internationally recognized rules—called “fair information practices”—FIPPA governs the collection, use and disclosure of personal information by public bodies. Collectively, FIPPA's rules reinforce the basic premise that public bodies must be appropriately restrained, transparent and vigilant in their collection, use, disclosure and management of personal information.

⁴ Davies, Simon, *Big Brother: Britain's Web of Surveillance & the New Technological Order* (London: Pan 1996)

⁵ *R. v. Dyment*, [1988] 2 S.C.R. 417, at pp. 429-430

Under FIPPA, the OIPC is the appeals and investigative agency that enforces compliance with the law's requirements. The OIPC, which is fully independent of executive government, is responsible for investigating and resolving complaints that any of more than 2,000 public bodies—including ministries, Crown corporations, universities and colleges, local governments, school boards and self-governing professions—has refused to give an applicant access to information or has inappropriately collected, used or disclosed someone's personal information.

Someone dissatisfied with a public body's decision in response to an access to information request can appeal the decision to the OIPC. The case is referred to a Portfolio Officer, who will investigate and attempt to mediate the dispute. The OIPC emphasizes mediation because it is cost-effective and, the OIPC firmly believes, yields effective outcomes. Last year, the OIPC succeeded in resolving 75% of all access to information disputes by mediation.

If a dispute cannot be resolved by mediation, it will proceed to a formal hearing, known as an inquiry. The parties are allowed to present evidence and legal argument, almost always in writing and not in a live hearing, on the issues in dispute. After consideration of the issues, the Commissioner or an Adjudicator issues a written decision, known as an order. The order is binding on the parties and must be complied with. A party has the right to seek judicial review of an order in the British Columbia Supreme Court. Generally, some 50 written orders are issued each year. Relatively few of them are the subject of judicial review proceedings in the courts.

The OIPC is also responsible for commenting on the access and privacy implications of proposed legislation or programs, new technologies or data linkages, educating the public about access and privacy rights and engaging in research into anything affecting access and privacy rights. The OIPC is regularly consulted by ministries and other public bodies, as it has been since the early 1990s, about legislative initiatives and program proposals that involve access to information or privacy rights. Public bodies recognize the value that the OIPC adds to public policy through its independent, arm's-length expertise in access to information and privacy issues. The OIPC has become known around the world for its expertise and contributions in these areas.

A properly functioning access and privacy system is indispensable to good government. The policy and program support that we provide to ministries, Crown corporations, health authorities and local public bodies assists them in pro-actively and cost-effectively meeting their statutory obligations and adopting best practices. The services we provide under FIPPA are also crucial to ensuring that public bodies operate in a transparent and accountable fashion and that public bodies respect the privacy of the citizens they serve.

The value of the OIPC's services to the health of our democratic system of government and protection of individual rights cannot readily be measured. There is no doubt, however, that our mandate and functions are vital to restraining and illuminating the activities of government and to empowering citizens, both of which are fundamental to a healthy and well-functioning modern democracy.

2. Mandate under the *Personal Information Protection Act*

PIPA came into force on January 1, 2004. It governs the collection, use and disclosure of personal information by the provincially-regulated for-profit and not-for-profit private sector in British Columbia. At least 380,000 organizations in British Columbia are covered by PIPA, including all businesses, trade unions, societies, co-operatives, independent schools, charitable organizations and religious organizations. Similar legislation exists federally, in Alberta and in Quebec. Private sector privacy legislation also exists at the federal and state levels in the United States, in the European Union and in many Asian countries (such as Japan, Korea and Hong Kong). The Organization for Economic Co-operation and Development and the Asia Pacific Economic Cooperation organization have adopted privacy frameworks that promote similar legislation among their members.

The OIPC is responsible for overseeing compliance with PIPA. As with FIPPA, PIPA gives us the authority to investigate and mediate complaints, hold formal hearings and, if necessary, dispose of complaints by a binding order.

Our PIPA activities have been even more extensive than these numbers indicate. For example, the OIPC has published a number of guidelines to pro-actively educate organizations and consumers about PIPA and assist with compliance. Our website has been revamped and through it we offer resources to organizations and citizens.

As with our other public education efforts, the Commissioner and other OIPC staff speak frequently at conferences and to groups about PIPA.

3. Mandate under the *Lobbyists Registration Act*

In addition to other responsibilities, the Commissioner is also the Registrar of Lobbyists under the LRA. The purpose of that law is to require registration as a lobbyist of anyone who communicates with a public officer in an attempt to influence the development of a legislative proposal, the introduction of a Bill, the awarding of a contract, the amendment of a government policy or program or the arranging of a meeting with a public office holder. This information is made available to the public through a website.