

A new FOIPOP Act – Regulations Engagement

MARCH 25, 2026

Background

- ▶ Freedom of Information and Protection of Privacy Act (FOIPOP) has undergone its first major update in 25 years
- ▶ Comes into force April 1, 2027, consolidating PIIDPA, PRO, MGA Part XX and FOIPOP into one modern Act
- ▶ Regulation authority in new Act will provide further details on requirements (work is underway)
- ▶ Engagement efforts on the Acts themselves were undertaken with public, public bodies, municipalities in 2023
- ▶ Today's engagement aims to gather input on key areas for regulation development

Regulations – Key Areas

1. Common or integrated programs
2. Data linking and data-linking programs
3. Access and storage outside of Canada
4. Privacy assessment requirements
5. Privacy policy requirements
6. Privacy breach notifications
7. Access regulations

Common or integrated programs

a program or activity that

- a. Provides one or more services through
 - i. A public body and one or more other public bodies or partner agencies, working collaboratively, or
 - ii. One public body working on behalf of one or more other public bodies or partner agencies; and
- b. Is confirmed, in the manner provided by the regulations, as being a common or integrated program or activity;

- ▶ Do you have programs within your organization today that need to share PI across them to provide services? Or outside your organization?
- ▶ What challenges do you face today with information sharing in this situation that you hope the new Act and regulations will help alleviate?
- ▶ Will the provision to have common or integrated programs help to address this?
- ▶ Should they be confirmed as a common or integrated program in a written agreement? Anything that should or should not be in that agreement?
- ▶ What guidance would you like to see in regulations? In supporting materials?

Data-linking/data-linking programs

“**data linking**” means the linking, temporarily or permanently, of two or more data sets through the use of one or more common keys;

“**data linking program**” means a program of a public body that involves data linking where at least one data set in the custody or under the control of a public body is linked with a data set in the custody or under the control of one or more other public bodies or partner agencies without the consent of the individuals whose personal information is contained in the data set;”

s. 77 A public body conducting a data-linking program shall comply with the regulations, if any, made for the purposes of this Section.

- ▶ What is your experience with data-linking and data-linking programs? Or data requests or usage?
- ▶ What are you hoping the regs will do/not do?
- ▶ What do you think should be required (e.g., written agreement, security measures, governance structures)?
- ▶ Any other guidance you would like to see in regulations? In supporting materials?

Access/storage outside of Canada

s. 76 A public body may not
(a) disclose personal information outside of Canada;
(b) store personal information outside of Canada; or
(c) permit personal information in its custody or under its control to be accessed from outside of Canada, unless the disclosure, storage or access is in accordance with the regulations.

- ▶ What challenges, if any, do you face today with PIIDPA requirements?
- ▶ What are you hoping the regs will do/ not do?
- ▶ On what should we base the decision to allow access/storage/disclosure outside of Canada? (e.g., consent, necessity, approval from head of public body, risk-based/tied to PIA)?
- ▶ Any thoughts on data travel/data in transit?

Privacy assessments

s. 53 (1) A public body shall

- (a) before undertaking or instituting a project, program, system or other activity involving the collection, use or disclosure of personal information, conduct a privacy assessment of the project, program, system or activity; and
- (b) before substantially changing a project, program, system or other activity involving the collection, use or disclosure of personal information, conduct a privacy assessment of the project, program, system or activity that reflects the anticipated change.

(2) A privacy assessment must comply with any requirements prescribed by the regulations.

- ▶ What is working well with current privacy assessments? What challenges do you face?
- ▶ What are you hoping the regs will do (or not do)?
- ▶ How scalable and flexible should the assessments be? Are there any key elements that should be included or excluded?
- ▶ Who should approve them?
- ▶ Should joint PIAs be allowed? If so, are there any unique risks or responsibilities of individual parties that need to be addressed?

Privacy policies

s. 52 (1) a public body shall establish and maintain a privacy policy meeting the requirements prescribed by the regulations.

- ▶ Any general thoughts on this requirement?
- ▶ Anything you hope the regs will require (not require)?

Privacy breach notifications

s. 78 (1) defines a “privacy breach” and “significant harm”

(2) Subject to subsection (4), upon becoming aware that a privacy breach has occurred, the head of the public body shall, where it is reasonable to believe that an affected individual could experience significant harm as a result of the privacy breach, notify that individual and the Commissioner.

(6) A notification under subsection (2) must be made in the manner prescribed by the regulations.

- ▶ Anything you hope the regs will require?
- ▶ How should the notification be made?
- ▶ Key elements to include in the notice?
- ▶ Is guidance needed on indirect notification?

Access regulations

- ▶ Expect access regulations to be similar to current
- ▶ Is there anything in current access-related regs that is problematic or missing?
- ▶ Are there areas where regulations could provide further direction?

Anything we missed?

- ▶ Is there anything we didn't touch on today that you hope regulations will cover?
- ▶ Is there anything else we should be aware of?

Next steps

- ▶ Drafting and finalizing of regulations
- ▶ Creating templates and support material
- ▶ Training and education

Thank you!