

# **BCEP** **BULLETS . . .**

Bullet #2 **Update**

**February 2011**

## **Release of Client Information**

**To:** Ministry of Social Development Staff/BCEP Contractors

**Purpose:**

The following document is the final version of the FOI Guidelines, developed to assist Contractors in appropriately managing the release of client and other BCEP information.

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### **Collection Management and Release of Client Info:**

This document serves as a reference for Contractors who provide employment programming services under contract to the ministry.

This document provides the following procedures:

- PART 1 – REQUESTS FOR CLIENT INFORMATION
- PART 2 – INFORMATION INCIDENT GUIDELINES
- PART 3 – REFERRAL AND RETURN NOTE STANDARDS

This information is in addition to the *Freedom of Information and Protection of Privacy Act (FOIPPA)* contractual obligations Contractors currently have in their contracts with the Ministry of Social Development and does not release the Contractor from any obligations within their contract.

Contractors are encouraged to contact their Contract Manager if there are questions pertaining to this document or if situations arise that are not addressed.

### **PART 1      REQUESTS FOR CLIENT INFORMATION**

There are seven types of requests that pertain to client information:

# **BCEP**

## **BULLETS . . .**

Bullet #2 **Update**

**February 2011**

### **Release of Client Information**

#### **1. Routine Release**

- Records that were submitted by a client to the BCEP Contractor (e.g. résumé, job search list) can be routinely released only to that client if:
  - The client submitted the record to the Contractor
  - The Contractor previously provided the record to the client
- Prior to Routine Release of a record to a client the Contractor shall:
  - Clearly establish the identity of the person making the request for the record
  - Review the record before release to ensure it does not contain information that references other individuals (third parties)
  - Record in writing the information disclosed on the client file
  - Provide a photocopy of the record to the client. Note: Never provide original records

#### **2. Formal requests under the FOIPPA**

- The request can be either Personal or General:
  - A **Personal Request** is for information held by the Contractor concerning the BCEP participant or former participant. This request can come from the BCEP participant, former participant, or a third party such as a lawyer, advocate, or from a ministry contracted service provider delivering client services in another program area (e.g., CAP, BEP, LMDA programs and services)
  - A **General Request** is for information concerning the Contractor such as a copy of their contract with the ministry. This request can come from any individual
- Both requests must be submitted to the ministry in writing specifying what records are requested. The request can be either handwritten or on a form.
- Contractors are not authorized to release information. Information released as a result of a FOIPPA request will be provided under the signature of the Ministry of Citizens Services (MCS) Manager of Access Operations after going through a

# **BCEP**

## **BULLETS . . .**

Bullet #2 **Update**

**February 2011**

### **Release of Client Information**

sign-off process that involves the program area Director, the Assistant Deputy Minister and the Deputy Minister.

#### **Personal Request:**

- A Personal Request must contain a personal identifier such as Date of Birth or Social Insurance Number.
- Personal requests are released under the signature of the FOI Analyst.
- If a personal request is received by the Contractor, it must be faxed immediately to Information Access Operations (IAO) Intake @ 250 387-9843.
- IAO will send an email to the Contractor contact to request personal records

#### **General Request:**

- For General requests, IAO will consult with the Regional Contract Manager and/or the program area.
- IAO may also contact the owner of the contract to discuss exceptions subject to section 21 (3<sup>rd</sup> party business interests) and 22 (personal information) of the *FOIPPA*.

### **3. Disclosure of client information under Section 33 of the *FOIPPA***

- These requests can come from several sources including other ministries, the police, outside agencies or friends or relatives trying to track down an individual.
- Contractors must not respond to these requests.
- Contractors do not have delegated authority to release any information.
- Refer all requests to the Ministry Supervisor.

### **4. Disclosure of client information under Section 30.2 (3) of the *FOIPPA***

- These requests can come from a foreign court, an agency of a foreign state or another authority outside Canada.
- Contractors must not respond to these requests.
- Contractors do not have delegated authority to release any information.
- Refer all requests to the Ministry Supervisor.

### **5. Ministry of Social Development Staff Requests**

# **BCEP**

## **BULLETS . . .**

Bullet #2 **Update**

**February 2011**

### **Release of Client Information**

- In order to manage ministry programs, deliver effective service to our clients, and determine a client's eligibility for assistance, ministry staff may request client information and records from Contractors.
- It is appropriate and in compliance with the *FOIPPA* for ministry staff to request client participation/activity and attendance reports when it is on a "need to know" basis, that is, the information is being given to a ministry staff person who requires the information to do his/her job.
- The following Ministry of Social Development and Ministry of Citizens' Services staff have been deemed by the ministry as requiring this information by virtue of their position:
  - EAW / Case Manager of the client
  - Program Key Contact or Subject Matter Expert (SME) in office the client attends i.e. BCEP SME
  - The specific Program Coordinator or Regional Contract Manager for the region involved
  - Supervisor of the office the client attends
  - Manager responsible for the office the client attends
  - Reconsideration Adjudicators
  - Employment Programs Management Branch Staff
  - Information & Privacy Analyst/Information Privacy & Records Technicians (Ministry of Citizens' Services)
- Accordingly, Contractors are required to provide client information to these staff, per their contract with the ministry, when requested. The requests from these staff may be made via phone (preferable) or e-mail (when phone is not a viable option). Contractors must ensure that e-mails do not include personally identifiable information, such as client name, address, phone number or Social Insurance Number. It is appropriate to include the BCEP file number (i.e. 'EM' number).

#### **6. Request by the Contractor to Ministry Staff**

- Contractors can request client information from the ministry only when it pertains to their program and is on a "need to know" basis; that is, the information is required to deliver their program, e.g., referral information or information that a

# **BCEP**

## **BULLETS . . .**

Bullet #2 **Update**

**February 2011**

### **Release of Client Information**

client is no longer a client of the ministry although the reason would not necessarily be released.

#### **7. Reconsiderations and Appeals**

- The client does not have to make a request under *FOIPPA* to obtain the records. All documents used to make the decision are released. The documents should be reviewed for 3rd party information, solicitor client information, informants and mosaic identifiers<sup>1</sup> prior to being forwarded to Reconsideration Adjudicators / Reconsideration Officers. Contractors should review these requests and documentation with the Regional Contract Manager.
- In situations where a client requests information regarding their participation in BCEP for a Reconsideration and Appeal Tribunal the following procedures must be followed:
  - a. Where the client requests the information from the Ministry,
    - The Ministry Supervisor or designate must contact the BCEP Contractor via phone (preferable) or e-mail (when the phone is not a viable option) stating the Client's EM Number, and that the following information is required for a reconsideration decision or an appeal tribunal. NOTE: Contractors must ensure that responses made to an e-mail request do not include personally identifiable information, such as client name, address, phone number or Social Insurance Number.
    - The Contractor will forward the information to the Ministry Supervisor or designate within two days
    - The Ministry will provide the information to the Client within five days of the original request
  - b. Where the client requests the information directly from the Contractor or Sub Contractor,
    - The Contractor must immediately contact the Ministry Supervisor or designate to discuss the request

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<sup>1</sup> Mosaic identifiers refer to non-identifying client characteristics when placed and viewed together may disclose client identity.

# **BCEP**

## **BULLETS . . .**

Bullet #2 **Update**

**February 2011**

### **Release of Client Information**

- The Ministry Supervisor or designate will confirm if the information requested is for a reconsideration decision or an appeal tribunal and request the information from the Contractor in writing via e-mail stating the Client's EM Number, and that the following information is required for a reconsideration decision or an appeal tribunal
- The Contractor will forward the information to the Ministry Supervisor within two days
- The Ministry will provide the information to the Client

### **PART 2: INFORMATION INCIDENT GUIDELINES (formerly BREACH OF CONFIDENTIALITY PROCEDURES)**

#### **Guidelines for Handling a Privacy Breach**

When a public body discovers that it has accidentally disclosed an individual's personal information and the disclosure was not authorized by section 33 of the *Freedom of Information and Protection of Privacy Act*, the public body must take appropriate action. The following guidelines set out appropriate steps for addressing a privacy breach situation.

#### **REPORT**

The BCEP Contractor is to advise the Ministry Supervisor/Manager (with a 'cc' to the BCEP Manager) verbally and in written form of the breach **as soon as he/she becomes aware** of it. This is considered urgent and a priority. The Ministry will undertake the steps described at the following link: <http://icw.hsd.gov.bc.ca/Security/docs/infoIncidentProceduresAllOther.pdf>

#### **RECOVER**

# **BCEP** **BULLETS . . .**

Bullet #2 **Update**

**February 2011**

## **Release of Client Information**

The BCEP Contractor must work with the Ministry Supervisor/Manager to identify actions to retrieve the information as swiftly as possible, or otherwise contain the incident to lessen the impacts and implications for government and individuals.

### **REMEDIATE**

The BCEP Contractor may be asked by the Ministry Supervisor/Manager to actively participate in remediation action.

### **CLIENT NOTIFICATION**

The BCEP Contractor will be expected to work with the Ministry Supervisor/Manager to develop a client notification strategy.

### **PREVENTION**

It is expected that the BCEP Contractor will take appropriate steps to mitigate future client privacy breaches. In some circumstances the Contractor may be asked to participate in the development of a final report of the incident.

## **PART 3: REFERRAL AND RETURN NOTE STANDARDS**

Recent enhancements to ministry programming include the ability to electronically communicate between the ministry and Contractors through Referral and Return notes.

# **BCEP** **BULLETS . . .**

Bullet #2 **Update**

**February 2011**

## **Release of Client Information**

As these notes are subject to the *FOIPPA*, ministry staff and Contractors are required to adhere to the following standards to ensure the protection of personal information when completing either a Referral or Return Note.

As a general rule, Referral and Return Notes are to be used with discretion and are not intended to serve as a regular form of communication between the ministry and Contractor. When creating a Referral or Return note, you should include:

- only factual and professional information pertaining to the Client e.g. last program attended;
- only information that is considered beneficial and supportive to helping the Client meet program objectives, e.g. any barriers to communication such as literacy, ESL, TTY;
- only information that is defensible and non-judgmental, and would not embarrass the Client or Ministry in any way, e.g. the person appears to suffer from alcohol or other addiction.

Comments of a personal nature about an individual are not acceptable in any form.

### **PART 4: CLIENT STRENGTHS AND BARRIERS DATA STANDARDS**

A key component of the client's employment assessment completed by the Contractor is the Client Strengths and Barriers data. Strengths and Barriers information contains fourteen characteristics with four levels of intensity ranging from no barriers to significant barriers. This information resides within the BCEP database.

The Contractor must make every reasonable effort to ensure that the personal information that comprises the Strengths and Barriers data is accurate and complete based on self identification by the client.



# **BCEP** ***BULLETS . . .***

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Bullet #2 **Update**

**February 2011**

## **Release of Client Information**

Collecting the personal information directly from the client is the best way to ensure accuracy of the information. The client should verify the information whenever possible. The Contractor, whenever possible, should have the client verify/check that the information collected is accurate at the time the information is being collected.