

SUPPLEMENTARY BUDGET SUBMISSION

2018/2019



Presented to the

**Select Standing Committee on
Finance and Government Services**

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The Office of the

ombudsperson

B.C.'s Independent Voice For Fairness

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OVERVIEW OF OMBUDSPERSON OPERATIONS

The Office of the Ombudsperson (originally “Ombudsman”) was established in British Columbia in 1979. The Ombudsperson investigates complaints about the actions, inactions, decisions, policies and procedures of a broad range of provincial and local public bodies in British Columbia including ministries, provincial boards and commissions, Crown corporations, health authorities, local governments, school boards, colleges, universities and governing bodies of various regulated professions and occupations.

In addition to receiving and investigating individual concerns and complaints, the Office of the Ombudsperson also delivers on its mandate to oversee the fairness of administrative actions of government authorities by conducting in-depth systemic investigations and reporting the results. Recent systemic reports have addressed a range of issues related to fairness in public administration including private career training oversight, bylaw enforcement, the inspection of correctional facilities, Crown land allocation and income assistance administration.

From 2017/18 through 2019/20 the Ombudsperson is carrying out a three-year pilot project on Preventative Ombudship. The program applies the Ombudsperson’s expertise in administrative fairness to proactively assist authorities to operate in a fair and reasonable manner, thereby preventing problems from occurring in the first place. The program will be evaluated in 2019/20.

From 1979 until the present time the mandate and associated powers and duties of the Ombudsperson have arisen from one statute, the *Ombudsperson Act*. The passage of the *Public Interest Disclosure Act* adds a second statutory scheme to the mandate of the Ombudsperson.

BUDGET REQUEST

Background

On May 17, 2018 the *Public Interest Disclosure Act*, (PIDA) received Royal Assent.

The Attorney General's announcement at the time of first reading described the bill as follows:

"The Public Interest Disclosure Act (2018) will enable concerned public servants to report incidents to their supervisor, an internal designated officer or the Ombudsperson. The act makes it an offence to commit or direct a reprisal against such employee, which could take the form of demotion, termination or disciplinary measure."

The Attorney General stated the bill was to

"...ensure that public servants are safe to report serious wrongdoing without fearing reprisal."

2018/2019 Budget

For the fiscal year 2018/19 the Office of the Ombudsperson received an operating allocation of \$6,893,000 and a capital allocation of \$75,000.

The Ombudsperson requests a supplementary budget allocation in 2018/2019 to prepare for Phase 1 implementation of PIDA. The amount requested is \$744,000 in operating funds and \$75,000 in capital funds.

This represents the forecast cost in 2018/2019 of initiating preparations to undertake PIDA responsibilities with the balance of Phase 1 implementation to be incurred in the first quarter of 2019/2020. These costs are primarily related to salary and benefits, professional services, information technology and building occupancy. Capital costs are for tenant improvements including security costs.

Implication for 2019/2020 Budget

The balance of implementation costs and post-coming into force operating costs for the Ombudsperson under Phase 1 of PIDA will be provided as part of the 2019/2020 budget submission.

IMPLEMENTATION OVERVIEW IN 2018/2019

PIDA provides new powers and imposes new statutory duties on the Ombudsperson including:

- Providing advice to persons considering making a disclosure,
- Investigating disclosures about alleged wrongdoing,
- Powers and duties with respect to investigations by other public bodies including the ability to suspend such other investigations,
- Investigating allegations of reprisals,
- Extensive and varied reporting powers and duties.

The act comes into force by regulation. Government has indicated that it intends to bring the act into force in phases and, once fully implemented, much or all of the broader public sector may be included within the act.

The first phase will include:

- All Provincial government ministries,
- All Officers of the Legislature,
- Over 20 other provincial public bodies.

This first phase will come into force early in the 2019/20 fiscal year. Subsequent phases are anticipated to come into force in a multi stage approach to be completed by the time of the 5 year legislative committee review provided for by PIDA.

The timing of the coming into force of Phase 1 means that operating funding to discharge the Ombudsperson's duties and powers once the act comes into force will be included in the budget request for 2019/2020. The current supplementary request for 2018/2019 does not include funding for operations after the act comes into force.

Rather the current Supplementary Budget request is to enable the Office of the Ombudsperson to carry out the tasks to prepare the organization to deliver its functions under PIDA in accordance with government's coming into force timetable for Phase 1.

Key implementation tasks include:

1. Development of operational model and workload estimates

This will involve determining issues of organizational design, staffing and training, volume estimates and delegation of authority.

2. Implementation co-ordination with government

We have been advised that many of government's implementation tasks require information from or liaison with the Ombudsperson.

3. Best practice research

Many other jurisdictions have had a public interest disclosure law for several years. As a result there is considerable insight and learning available from Canadian and international public interest disclosure oversight bodies.

4. Communication and Outreach

Early feedback from Canadian Public Interest Disclosure Commissioners is that repeated high quality communication with public servants is essential to effecting positive culture change and to overcoming deep-seated fear among public servants about the consequences of reporting wrongdoing. This demands a visible, credible and sustained commitment to effectively communicate the values underlying PIDA in addition to communicating the details of the act.

5. Operational policy and procedure development

A complete set of internal Ombudsperson operational policies, consistent with the statutory framework, is essential in order to maximize efficiency, promote consistency and support delegation.

6. Inter-agency investigation protocol development

Development of interagency protocols with key investigatory bodies will support efficient and well functioning implementation where there are concurrent PIDA and other (e.g. criminal, regulatory, discipline) investigations into the same matter.

7. Urgent public reporting protocol

Protocol development with law enforcement and the Provincial Health Officer will support the effective implementation of the urgent public reporting provisions.

8. Reporting template development

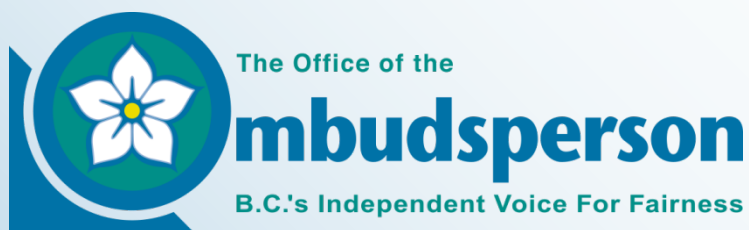
PIDA requires or permits the Ombudsperson to issue a number of different types of reports each with unique content and procedural requirements. Developing formats for each form of report will allow for more timely and efficient reporting once PIDA is in force.

9. *Systems Development*

PIDA will require the Ombudsperson to develop unique document management, investigation case management and management information systems all distinct from requirements under the *Ombudsperson Act*. This will require the development of an appropriate information technology platform.

SUMMARY

PIDA represents the first material new statutory function to be assigned to the Ombudsperson in the 40 year history of the office. Such legislation is a welcome development in ensuring a transparent, accountable public sector that acts with integrity. It also represents a significant implementation challenge for the Ombudsperson given that existing resources are fully allocated delivering current statutory functions under the *Ombudsperson Act*. Approving this supplementary budget request will allow the Ombudsperson to prepare to implement its responsibilities under Phase 1 of PIDA in a professional, high quality manner and do so in accordance with government's anticipated timelines.



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