

May 19, 2021

Minister Ravi Kahlon
Minister of Jobs, Economic Recovery and Innovation
Room 301 - Parliament Buildings
501 Belleville Street
Victoria BC V8V 1X4

Minister Lisa Beare
Minister of Citizens' Services
PO Box 9068 Stn Prov Govt
Victoria BC V8W 9E2

Dear Minister Kahlon and Minister Beare:

**Re: Inclusion of InBC to the *Freedom of Information and Protection of Privacy Act*
OIPC File F21-86127**

I write to urge the government to add InBC Investment Corp. (InBC) as a public body under the *Freedom of Information and Protection of Privacy Act* (FIPPA).

My understanding is that InBC will manage some \$500,000,000.00 of public funds for the purpose of investing in BC-based businesses with a triple bottom line mandate. Because InBC will be making decisions about the allocation of significant public monies and discharging important public functions, it should be subject to transparency and accountability under FIPPA.

There are many precedents for this.

British Columbia Investment Management Corporation (BCIMC) manages some \$171.3 billion in assets and is a major provider of investment management services for the public sector in British Columbia. It is a public body under FIPPA. So too is InnovateBC, which allocates public funds to private parties to finance innovation and economic development.

There are many other examples of Crown corporations or agencies that manage public funds or assets for the benefit of the province while being subject to FIPPA. ICBC, which competes in the

excess motor vehicle insurance market, and BC Hydro, which also operates in a competitive context, are two such illustrations.

Ontario also offers up an example that is analogous to InBC. The Ontario Capital Growth Corporation, whose website describes it as the venture capital agency of the government of Ontario, has been subject to that province's *Freedom of Information and Protection of Privacy Act* since 2011 and I understand that this has not presented any challenges.

As the above examples show, successive governments have recognized that FIPPA is of critical importance to ensuring the transparency and accountability of Crown or statutory corporations and agencies.

It would be no answer to say that FIPPA coverage is unnecessary because InBC will be required to release annual reports and will be subject to external reviews. Its annual reports are to be in a form and manner specified by the minister and external reviews will occur only every five years. These accountability mechanisms fall far short of what is needed and lack the ongoing transparency afforded through the access to information regime. Corporations such as BCIMC and ICBC are subject to FIPPA even though they are also subject to other reporting channels. The bottom line is that transparency and accountability to the public are best achieved through a range of measures, notably the public's right of access to information, guaranteed through the independent oversight of this Office.

The business interests of InBC and parties with whom it does business can be fully protected by FIPPA's robust access exceptions. This is amply demonstrated by the almost 30 years of experience of public bodies such as BCIMC, ICBC and BC Hydro in protecting their own business information and that of their business partners. Examples of the FIPPA exceptions that can come into play are sections 13 (advice or recommendations), 14 (solicitor-client privilege), 17 (financial interests of InBC or the provincial government), 21 (third-party business interests), and 22 (personal privacy of InBC employees and others).

FIPPA builds public trust in public operations and actions. There can be no doubt that, despite its investment independence from government—an independence shared by other public bodies—the public's trust of InBC will depend upon its ongoing transparency and accountability. The public's right of access to information under FIPPA, tempered by exceptions that can appropriately protect InBC's and third-party interests, is vitally important to achieving and keeping that trust.

I therefore urge the government to support Minister Beare in adding InBC as a public body under Schedule 2 of FIPPA, using her regulation making power in section 76.1(1)(a).

Because this letter relates to a Bill now before the Legislative Assembly, I will be making this letter publicly available.

Sincerely,

ORIGINAL SIGNED BY

Michael McEvoy
Information and Privacy Commissioner for British Columbia

pc: Todd Stone
Official Opposition Critic for Jobs, Economic Recovery, and Innovation

Bruce Banman
Official Opposition Critic for Citizens' Services