

Confidential Information Submissions - Summary

Designated Office Evaluations and Executive Committee Screenings

Introduction

There are provisions in the *Yukon Environmental and Socio-economic Act* (YESAA) to designate information confidential. The information can be submitted by a participant in relation to an assessment, or from a proponent as part of a project proposal. There are different applications to complete depending on whether the designation relates to Traditional Knowledge (YESAA 121(a)) or an Access to Information Exemption (YESAA 121(b)). As a result of the legislated definitions of “first nation” and “traditional knowledge” in YESAA, s.121(a) applications may be made in respect of Traditional Knowledge of a Yukon First Nation, or the Tetlit Gwich’in, within the meaning of the Umbrella Final Agreement. The application is submitted and reviewed by the Executive Committee (EC) and applies to both the Designated Office Evaluations and Executive Committee Screenings.

Application Submission

To start the process, download the correct application from YESAB’s website. It is beneficial to contact the Executive Committee Manager at the Whitehorse Head Office before completing the application. This provides an opportunity to clarify any questions you may have about the application process, file formats or requirements in advance. If you wish to include oral Traditional Knowledge information, please contact YESAB for further information on how to do so.

Application Overview

Complete the applicable form depending on the type of information to be designated as confidential. The application must include, but not limited to;

- Why the information is relevant to the proposal or assessment;
- Information helping to justify why the information should be designated as confidential; and
- A non-confidential summary that communicates a reasonable understanding of the information.

Traditional Knowledge Designation (s.121(a))

In order to designate Traditional Knowledge information confidential, the Executive Committee (EC) needs to understand that the information, knowledge, observations and understandings are rooted in the traditional way of life of first nations. Other application requirements include an explanation of how disclosing this information would result in the expectation of probable harm to a person, place or thing or constitutes a violation of the cultural value system of an affected Yukon First Nation. The specific Yukon First Nation is best placed to identify whether disclosure of Traditional Knowledge would be contrary to the Yukon First Nations’ cultural value system.

If the application to designate Traditional Knowledge as confidential is submitted by an entity other than the applicable First Nation, the application should include written confirmation from the applicable First Nation indicating that:

- i) the First Nation has reviewed the application;
- ii) the information contained in the application accurately represents their Traditional Knowledge; and
- iii) that the First Nation has authorized the applicant to submit the application.

For more information, please review the guidance on confidential Traditional Knowledge on YESAB's website.

Access to Information Exemption Designation (s.121(b))

Section 121(b) of YESAA specifies which information is protected from disclosure pursuant to a request by that person or body if it falls under the exemption categories of the Government of Canada [Access to Information Act \(ATIA\)](#). The applicant must identify the section of ATIA that limits the disclosure of this information to enable the EC to determine that the information is exempt from disclosure in order to designate the information as confidential.

Further, if the information sought to be designated as confidential includes the personal information of a third party (i.e. someone other than the applicant), then the application must include the third party's written consent to the collection and use of this information by YESAB.

For more information, please review the guidance on confidential information under ATIA on YESAB's website.

Process Overview

The EC may contact you if they have questions once they have received the completed application. The EC may seek out other additional information before making the designation. If this occurs, and the EC seeks information from a third party, the EC will not share or disclose to that individual the information you are seeking to have designated as confidential. The EC can only share other information in the application form, such as the non-confidential summary. At the end of their review, the EC will provide a written decision as to whether the information is designated as confidential or not.

If the EC concludes the information meets the test to designate the information confidential, it will be given full and fair consideration in the assessment. If the application pertains to a Designated Office Evaluation, the EC will provide the information to the specific Designated Office. The decision letter from the EC and non-confidential summary will be publicly available on YESAB's online registry. The summary is important because it is relied upon during the assessment process by participants including the Decision Body.

If the EC concludes the information does not meet the test to designate it as confidential under YESAA, it will not be considered in the assessment. The application and information will be returned to the applicant and the decision letter will be publicly available on YESAB's Online registry.

YESAB will not disclose Traditional Knowledge under s.121(a); however, under there is leeway in respect of disclosing information designated as confidential under s.121(b). Disclosure of s.121(b) information from the assessor to the Decision Body **can only occur** if the applicant agrees and consents to this disclosure. If the EC has designated information as confidential

under s.121(b), the assessor will contact you to discuss whether or not you agree to disclose this information to the Decision Body. If you do not agree to disclose the s.121(b) information to the Decision Body, the assessor will not disclose that information to them.

For more information, contact the Executive Committee Manager at Head Office:

Telephone: 867-668-6420

Toll Free: 1-866-322-4040

Email: yesab@yesab.ca