

Negotiations work sheet

Important note

This summary work sheet will help you to decide whether there is good reason to withhold official information under section 9(2)(j) of the OIA / 7(2)(i) of the LGOIMA, because withholding is necessary to enable a Minister or agency to carry on negotiations, without prejudice or disadvantage. Detailed information on this withholding ground can be found in our [Negotiations](#) guide.

<p>1. Can section 9(2)(j) OIA / 7(2)(i) LGOIMA apply?</p>	<ul style="list-style-type: none"> • Is your agency carrying on the negotiations? If another agency is carrying on the negotiations, consider whether to transfer the request. • Are you concerned about the impact of release on those negotiations? If yes, go to step 2.
<p>2. Negotiations</p>	<ul style="list-style-type: none"> • Identify the specific negotiations. • Negotiations means dialogue between two or more parties intended to reach an understanding or resolve a point of difference. • The negotiations must generally be in train or reasonably contemplated. • If there are negotiations, go to step 3. If not, release the information or consider whether another withholding ground might apply.
<p>3. Prejudice or disadvantage</p>	<ul style="list-style-type: none"> • Explain how release of the information at issue would prejudice or disadvantage the agency in carrying on those negotiations. • Identify the nature of the prejudice or disadvantage. For example: <ul style="list-style-type: none"> - Would release give an advantage to, or inhibit, the agency's negotiating opponent? If so, how? - Would release detrimentally affect the relationship between the negotiating partners? If so, how would this prejudice or disadvantage the agency's ability to conduct and conclude the negotiations? • Consider the likelihood of that prejudice or disadvantage coming to pass. It should be so likely that withholding is reasonably necessary. Relevant factors include the nature and content of the information, the extent to which the information is in the

	<p>public domain, the background to the negotiations, the relationship between the parties, and the timing of the request.</p> <ul style="list-style-type: none"> • Always consider whether it is possible to release the information in part. Remember, section 9(2)(j) of the OIA / 7(2)(i) of the LGOIMA does not protect all information relating to a negotiation, just the information that would be prejudicial if released. • If release would prejudice or disadvantage the agency in carrying on the negotiations, go to step 4. If not, release the information or consider whether another withholding ground might apply.
<p>4. Apply the public interest test</p>	<ul style="list-style-type: none"> • Identify any public interest considerations in favour of disclosure, for example, accountability for the matters that gave rise to the negotiation, for how the negotiations are conducted, and for spending public money, and public participation in matters related to the negotiation. • Consider whether these outweigh the need to withhold. • See Public interest—A guide to the public interest test in section 9(1) of the OIA and section 7(1) of the LGOIMA for more information.
<p>5. Make a decision on the request</p>	<ul style="list-style-type: none"> • If the public interest in disclosure outweighs the need to withhold, the information must be released. If it doesn't, then it is open to the agency to refuse the request. • Before refusing in full, consider partial release, release of summary information, or release of other information, in recognition of the public interest considerations discussed above. • See our Template letter 6: Letter communicating the decision on a request.