Should I add an open license to this?

To determine if you should add an open license to a specific work or material, consider the following questions:

Is it a tangible piece of work?

The definition of a work is something that is a **'tangible expression of an original idea'**. Examples of work that meet this definition includes white papers, how-tos or guides, reports, curriculum, documents, scripts, software, website templates, data sets, architectural designs, illustrations, photos, musical arrangements and videos.

These types of content are considered **'fixed'** meaning they take some kind of material form that a copyright (and therefore an open license) can be attached to.

If yes, **CONTINUE**

If your original idea has not been documented, or 'fixed' in a tangible form – such as written, spoken and recorded, filmed or illustrated – the idea is not protected by copyright, and therefore cannot be considered for open licensing.

If no, **STOP**

Could it be beneficial for other community members and organizations to distribute, modify, reuse, and build upon the work?

The definition of beneficial could include works that **teach skills** to others, **outline how a project was developed or conducted**, provides original materials that **others may re-use** instead of developing their own, and other attributes that another organization might find helpful in some way.

Other examples of reasons a work may be beneficial include:

- It could allow others to **not have to start from scratch**.
- It could allow others to **learn from others' experiences**.
- It could allow others to **replicate good ideas** in new contexts.
- It could allow others to **avoid mistakes**.
- It could allow others to **save time**.
- It could help others **save money** or cut down on costs.
- It could help others **innovate faster**.
- It could help **further a broader mission** (e.g. a movement beyond one organization).
- It could help others **learn about their community**.

If yes, **CONTINUE**.

If the work is incomplete, poorly assembled, contains private or potentially inaccurate information, contravenes Indigenous traditional knowledge and cultural sharing practices, or contains materials that you do not have permission to re-use, then it is highly likely that this work would not be of true benefit to others. It would be better to revise or improve the works in question before releasing them with an open license attached.

If no, **STOP**.

Is my organization the copyright holder?

Your organization is the copyright holder if:

- You, or one of your employees creates the work as part of their normal work duties, or
- Your organization has contracted someone (volunteer, consultant, artist, another organization etc.) to produce a work on your organization's behalf AND you have specified in a contract or agreement between you both that your organization holds copyright over what is produced.
- Your organization has secured a program participation agreement between your organization and members of the public who contribute original content to your project that specifies that your organization holds copyright over what is produced during participation in your program.

If yes, **CONTINUE.**

Tip: Always include an intellectual property clause in your contracts with volunteers, consultants, and other organizations that specifies who holds copyright and who can use the work and for what purposes. This is also true for program agreements with clients/customers/participants.

If no, **YOU HAVE A FEW OPTIONS**.

- Negotiate with the contractor: In this case, you can have a conversation with the person or organization you are contracting with to see if they are willing to:
  - Grant you full copyright and right to openly license
  - Openly license the material themselves.
  - Request that program participants openly license their work.

If you ultimately do not and cannot hold the copyright, **STOP HERE**.

NOTES:

It is important to note that although you may hold the copyright over the materials produced, open licensing can **dramatically enhance the potential exposure and unanticipated reuse** of the materials that you share using an open license.

Traditional agreements between organizations, contractors and participants do not typically include explicit permission to openly license their contributions and **should not be considered proof of acceptance of an open licensing agreement**. Any organization planning to add an open licensing requirement to their agreements are encouraged to explain the potential for additional exposure of these contributions in detail.

While open licensing can be helpful in extending the potential for an image, song, or statement to be exposed beyond the participant's expectations, it can be challenging for an organization to ensure that a participant is fully aware of the implications of that possible exposure. In some cases, this could result in a negative response from a participant after a work is released with an open license attached. Vancouver Foundation recommends taking a cautious and thoughtful approach to incorporating this kind of material into your openly licensed works.

Does the work contain traditional Indigenous knowledge?

Traditional Indigenous knowledge practices often are in conflict with Canadian intellectual property laws because **Indigenous peoples generally do not identify a single person or organization to hold copyright over the ideas, activities and expressions created by community members**. Traditional knowledge can include know-how, skills, practices, art forms and expressions of those forms, and is considered to be a kind of living information, community owned and created, over generations of time.

Therefore, for the purposes of Vancouver Foundation's Open Licensing Policy, we have determined that Canadian copyright law should not be considered to be automatically applicable to all works generated by Indigenous peoples. It then follows that open licensing cannot be beneficially applied as an extension of copyright law to works of this nature.

While this issue is complex and our views are subject to change as we learn more from our stakeholders, other policy developers, and legal experts in this field, Vancouver Foundation's position is that organizations **will not have the legal right to choose to apply an open license to works containing this kind of content**.

Tip: *Examples of traditional cultural knowledge may be useful to explore to better understand the issue. Some traditional knowledge is only meant to be used in very specific contexts (e.g. only by women, only in the Spring, only by members of specific Nation) and are not meant to be shared with the general public. Musical traditions and evolutions of those traditions are often based upon shared songs and systems embedded in cultural tradition, including when they result in new presentations of those concepts.*

Even within the rapidly evolving ecosystem of shared practices and collaboration between Indigenous peoples, many of these concepts are evolving and adapting to modern technological practices and opportunities.

Until more is known and shared back to us through these communities, it is best to exercise caution to avoid negative outcomes. It is also important to acknowledge that **including traditional Indigenous knowledge in a work without permission may be considered to be cultural appropriation**.

You have a few options to explore:

- Exclude parts of the work from open licensing.
- Include traditional knowledge labels [www.localcontexts.org/tk-labels] or licenses [www.localcontexts.org/tk-licenses] after discussion with and agreement from holders of the traditional knowledge.

If the traditional knowledge is core to the work, **STOP HERE**.

Does the material contain sensitive or personally-identifying information or contact information that is not already in the public domain?

If yes, **STOP** unless you can:

- anonymize the information, or
- remove the information from the work you are considering openly licensing.

If no, **CONTINUE**.

Even if a work contains contact information, sharing can be OK if the information is already public (e.g. on an organization's website).

Again, it is best to practice caution and thoughtfulness about the potential for heightened exposure of this information by evaluating whether it is truly beneficial to add it to the work, and whether the information will remain relevant and accurate over time.

Is revenue generated by the sale of work critical to our organization's financial sustainability?

If yes, and you have a plan to generate sales from the works you produce, first **consider applying a more restrictive license to the work** (such as the CC BY NC license, which restricts the use of the work by others for commercial purposes) or consider applying an embargo to the work for a specific period of time before releasing it with an open license.

Otherwise, **STOP HERE**.
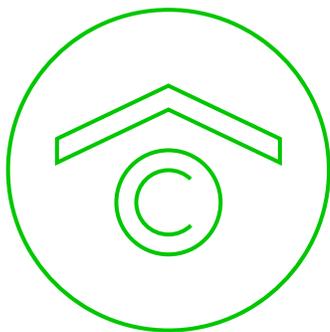
If no, **CONTINUE**.

Examples include strategic planning, short-term, time-based activity, or limited collaborations between two entities working towards a specific goal (e.g. a political or strategic public engagement campaign).

If yes, **first consider embargoing the work** for one or two years before releasing with an open license.

Otherwise, **STOP HERE**.

If no, **CONTINUE**.

Is the privacy of the work critical to the success of the project?

If yes, **PAUSE.**

Creative Commons open licenses are not the only way to make a work more open or publicly accessible. Many different fields already work with industry-specific open access policies, such as health research funders who require research to be made openly accessible within 12 months of initial publication.

If your works are already subject to a formal, and internationally recognized open policy, Vancouver Foundation does not require additional licensing, although you are free to do so.

If no, **CONTINUE**.

Is the work already covered by an open access policy with one of our other funders?

Is the material produced by minors?

If yes, **STOP**.

As mentioned above, agreement development between project participants and contractors can require extra time and resources to ensure that all parties are aware of the implications of open licensing. This is an even stronger concern when working with minors.

Vancouver Foundation recommends **avoiding openly licensing content produced by minors**, and materials generated of minors who participate in a program (such as photographs and video).

If no, **CONTINUE**.

Would openly licensing this work negatively impact our brand or relationships with our clients/partners? Would it exploit vulnerable people?

If yes, **PAUSE**.

Consider isolating the parts of the work that is beneficial for others, and openly licensing it separately.

Otherwise, **STOP HERE**.

If no, **CONTINUE**.

Can we use a Creative Commons license for this work?

If yes, **CONTINUE**.

The CC BY Attribution license is the Vancouver Foundation's default open license for work other than code or data.

If no (ie for code or data)

Contact open@vancouverfoundation.ca for further open licensing options.

Which license should I choose?

creativecommons.org/licenses

Creative Commons Open Licenses help you give others the right to use your work in specific ways. Explore the options below and consider what is the best option for the work you have created – for your own current and future needs, and for others who might benefit greatly from the opportunity to use what you have created.

CC LICENSE	DESCRIPTION	WHEN TO USE	EXAMPLES
CC BY	**Attribution (CC BY)** Vancouver Foundation's default license is CC BY. This license allows others to edit, excerpt, share, remix and expand upon your work, as long as they credit you for your original creation. **More detail:** creativecommons.org/licenses/by/4.0	When you want as many people as possible to use, share, learn from, and build upon your work. **Good to know:** Those who use CC BY content are under no additional requirements beyond crediting you as the source of your work. Your work, or only small sections of it, may be remixed or re-used in new creations, may be added to publications, shared on social media, or even be sold or distributed broadly by others.	White papers, policies, open educational resources, guides, planning materials, research, reports, photographs, charts, illustrations, campaign materials, social media content, etc.
CC BY SA	**Attribution-ShareAlike (CC BY-SA)** This license allows others to remix, tweak, and build upon your work, as long as they credit you for your original creation, and as long as any new works created from it are also licensed under a CC BY-SA license. **More detail:** creativecommons.org/licenses/by-sa/4.0	When you want to require that others who edit, remix and expand upon your work ALSO make the new work sharable under a CC BY-SA license. **Good to know:** This is particularly helpful when a work is intended to be an iterative, collaborative project or when you want to ensure that your original work remains open and accessible in all future forms.	Much of the content on Wikipedia articles is licensed under CC BY-SA, as are many Open Educational Resources whose creators intend for their works to be remixed and adapted and shared back into their communities.

CC LICENSE	DESCRIPTION	WHEN TO USE	EXAMPLES
	Attribution-NonCommercial (CC BY-NC) This license allows others to remix, tweak, and build upon your work solely for non-commercial purposes, as long as they credit you for your original creation. **More detail:** creativecommons.org/licenses/by-nc/4.0	Organizations who depend upon income generated from the sale of original works in order to continue operating should consider this option. **Good to know:** This license does not prevent others from sharing or using the work in multiple ways. For example, a CC BY-NC illustration may be printed on hundreds of t-shirts – but those t-shirts may not be sold without the creator's permission.	Art, music, fiction, performances or lectures, designs, logos and branded content and materials.
	Attribution-NoDerivatives (CC BY-ND) This license allows others to share and distribute complete and unedited copies of your work, commercially and non-commercially, as long as the content is not changed in any way, plus they are required to credit you for your original creation. **More detail:** creativecommons.org/licenses/by-nd/4.0	When your work depends upon your expertise in a complex matter, when an excerpt or edit could result in significantly misrepresenting the work, or when the subject matter might be considered incomplete in shorter form.	Health studies, government-issued materials, some datasets, manufacturing templates, etc.

(Note: Contact open@vancouverfoundation.ca if you would like to discuss alternative license types. Other options include Attribution-NonCommercial-NoDerivatives (CC BY-NC-ND) and Attribution-NonCommercial-ShareAlike (CC BY-NC-SA).)

How to mark your work with an open license

CONTENT TYPE	WHERE TO PLACE CC LICENSE INFORMATION	WHAT TO INCLUDE (REQUIREMENTS)
Online Text/ Webpage	Webpage **footer**	**Minimum requirement:** The name and full URL (hyperlink) to the applicable license; a copyright notice stating the author(s), date and copyright.

This work is licensed under CC-BY version 4.0 https://creativecommons. org/licenses/by/4.0

© 2014, [Name of Author(s)]. Some Rights Reserved.

If your content incorporates third party works, specify which elements are not CC licensed, and include proper attribution for all third party works.

Optional: a CC license icon that includes a CC logo linked to the appropriate CC license deed. Best practice is to use the CC license chooser to generate a machine-readable CC license. |
Online Image or Audio	Immediately **below or next to** the content. Recite at the **beginning or end of** the original audio file/broadcast audio reciting the type of CC license used	
Online Video or Presentation	Immediately below or next to the content and include a **copyright screen/page**	
Link to Document, Image, Video or other content	Immediately **below or next to** the link	
Collection of Documents for Download (example: a zip file)	Immediately **below or next to** the download link and include a **text file** with the CC license in the download; where appropriate, place CC mark in content. Include a text file called **LICENSE.txt** in the zip file that identifies license terms for the included works, particularly where not directly marked (as with images).	
Offline Text/ Document	**Cover page** or include a **copyright page**	
Offline Image	Immediately **below or near** the image, if included in another work. In a **separate text file** if distributed standalone (or create a zip file, see above)	
Offline Video	**Title screen** or include a **copyright screen**	
Offline Presentation	**Title page** or include a **copyright page**	

CONTENT TYPE	WHERE TO PLACE CC LICENSE INFORMATION	WHAT TO INCLUDE (REQUIREMENTS)
Offline Audio	Recite at the **beginning or end of** the original audio file/broadcast audio reciting the type of CC license used.	**Minimum requirement:** "This work is licensed under [License Name], a copy of which is available online at [URL]..." **Optional:** Recite the name of the author(s), date and copyright.

TIPS

For online content, use the Creative Commons **license chooser** which can be found at creativecommons.org/choose.

Copy and paste the HTML code into your webpage or website.

Benefits: The code: makes it easier for others to provide you proper attribution; increases the chance your work will be found in online searches; and provides editable text to suit your needs. For instance, if your content is composed of the work of third parties, you can specify which parts of your content are under a CC license and which parts are offered under other terms. For online and offline content, **Creative Commons icons** can be found at creativecommons.org/about/downloads

If you are marking work that contains content **already licensed under a Creative Commons license**, follow the example below:

The photo X is © 2009 Jane Park, used under a Creative Commons Attribution-Noncommercial license: https://creativecommons.org/licenses/by-nc/4.0

EXAMPLES

Copyright page for a presentation or video	Icon and text for a webpage or document
  Except where otherwise noted, this work is licensed under http://creativecommons.org.licenses/by/4.0	 Copyright © Individual authors, 2014. The publication entitled ICT Leadership in Higher education: Selected Readings is made available under a Creative Commons Attribution-ShareAlike 4.0 License (international): https://creativecommons.org/licenses/by-sa/4.0 by CEMCA with permission of the authors.