

Information Act

No. 140/2012

CHAPTER I

Objective and scope

Article 1

Objective

The objective of this Act is to guarantee transparency in government administration and the handling of public interests, inter alia with the purpose of strengthening the following:

1. the right to information and the freedom of expression,
2. possibilities for the public to participate in a democratic society,
3. the restraints exercised by the media and the public on government authorities,
4. possibilities for the media to communicate information on public affairs,
5. public confidence in government administration.

Article 2

Scope

This Act applies to all government activities.

This Act applies to all operations of legal entities in which a share of 51% or more is in public ownership. However, the Act does not apply to legal entities which have applied for or received an official listing of shares according to the Act on Stock Exchanges, nor to their subsidiaries.

If the operations of a legal entity falling under the second paragraph occur almost entirely in market competition, the minister may, upon receiving a proposal from the appropriate minister or local authority as well as comment from the Competition Authority, decide that this entity shall not fall under the scope of this Act, and may also withdraw such a decision. The ministry shall keep an official list of the legal entities which have received an exemption according to this paragraph, and the exemptions of individual entities shall be reviewed every three years. Decisions pursuant to this paragraph shall enter into force upon publication in Section B of the Law and Ministerial Gazette.

Article 3

Private sector entities to which public projects are assigned

This Act applies to private sector entities, whether these are in public ownership or not, to the extent that these entities have been assigned through legislation or a decision or agreement based on a statutory authorisation to take government decisions or perform services which by law are to be performed by a government authority or which are otherwise considered an element of a government authority's official role.

Article 4

Scope in relation to other statutes and international agreements

This Act does not apply to property registrations, enforcement proceedings, the arrest of property, attachments, injunctions, forced sale, payment moratoria, compositions, liquidations, estate settlements or other administrative settlements, nor to investigations or prosecutions in criminal cases.

This Act does not cover access to information under the Administrative Procedures Act. Nor does this Act apply to information which is to be kept confidential according to any international agreement to which Iceland is party.

Provisions which in any other statute authorise more extensive access to information shall remain in force. General statutory provisions on confidentiality shall not restrict any access to material pursuant to this Act.

This Act shall apply to access to documents for 30 years after they have been created. This time is based on the last entry or last correspondence in a closed matter. After this time, access shall be subject to the Act on the National Archives of Iceland.

CHAPTER II
Public access to information
Article 5

Public right of access to material

Upon request, public access is to be granted to the available material on any specific matter, subject to the restrictions stated in Articles 6-10. The same applies to requests for access to particular available documents. Nonetheless, there is no requirement to prepare new documents or further material, in excess of what can be inferred from the third paragraph.

The right of access to material shall apply to:

1. all of the material related to a matter, including copies of correspondence sent by a government authority or other entity according to Chapter I, if this correspondence may be expected to have reached the recipient,
2. diary entries concerning material relating to the matter, and lists of case materials.

If the provisions of Articles 6-10 on limitations to the right to information cover only part of the material, access shall be granted to the other parts of it.

Article 6

Material exempted from the right to information

The public right of access to material shall not extend to:

1. minutes of State Council meetings and Cabinet meetings, memoranda at ministerial meetings, or the material prepared for such meetings,
2. material prepared by local authorities, their associations or their bodies when this material concerns joint preparations, formulations of proposals or negotiations of these parties with the State on the financial concerns of local authorities,
3. correspondence with experts for use in legal proceedings or in investigating whether or not to initiate such proceedings,
4. material related to personnel matters, cf. Article 7,
5. working documents, cf. Article 8.

Article 7

Information on matters of personnel

The right of the public to access material concerning matters of personnel employed by the entities which this Act covers, pursuant to Article 2, shall not include material in matters regarding job applications, career advancement or other aspects of the employment relationship.

When other limitations to the right to information under this Act do not apply, despite the provisions of the first paragraph, information must be provided on the following points regarding public employees:

1. names and professional designations of job applicants, once the application deadline has passed,
2. names of employees and their areas of responsibility,
3. terms of fixed remuneration of employees other than senior managers,
4. remuneration terms of senior managers,
5. the education of senior managers, as well as their job priorities and the results which they are required to achieve, as stated in their employment agreements or other material.

Furthermore, information may be provided on employment sanctions to which senior managers have been subjected, including sanctions entailing expulsions and cautions, on condition that no more than four years have passed since the decision in question.

In the same manner, the public must be provided with information on the following points relating to the employees of legal entities falling under this Act, according to the first sentence of the second paragraph of Article 2:

1. names of employees and their areas of responsibility,
2. the education of senior managers, as well their terms of remuneration.

As regards information falling under the second and fourth paragraphs, the public has a right to access it from the employer involved, even if this information is not found in the material pertaining to a specified matter.

Article 8

Working documents

Working documents are considered to be the material written or prepared by government authorities or legal entities, in the sense of Articles 2 and 3, for their own use while preparing a decision or some other resolution of a matter. When such material has been turned over to another party, it shall no longer be regarded as working documents, unless it was only being turned over to a supervisory authority due to legal obligations.

Working documents also include the following material, provided it meets the requirements of the first paragraph in other respects:

1. material transmitted between government authorities when one authority is performing secretarial tasks or comparable work for another authority,
2. material prepared by committees or working groups with a fixed role which have been set up through a formal decision by a government authority,
3. material sent between a party pertaining to Sub-paragraph 2 and other government authorities when the personnel of these authorities are members of the committee or group.

Notwithstanding Sub-paragraph 5 of Article 6, working documents must be handed over if any of the following applies:

1. the documents include a final decision on the handling of a matter,
2. the documents include information which a government authority is obligated to file, according to the first paragraph of Article 27,
3. the documents include information on the circumstances of a case which does not appear anywhere else,
4. the documents include a description of task procedures or administrative practice in a particular field.

Article 9

Restrictions to the right to information, on account of private interests

Public access is prohibited to material concerning any of an individual's private or financial affairs which would be reasonable or appropriate to keep secret, unless the person concerned gives consent. The same restrictions cover access to material which concerns any important financial or commercial interests of businesses or other legal entities.

Article 10

Restrictions to the right to information on account of public interests

Public access to material may be restricted if such restriction is necessitated by important public interests because of the material containing information on:

1. state security or defence issues,
2. relations with other States or international organisations,
3. economically significant State interests,
4. the business of State-owned or municipally owned institutions or companies insofar as they are competing with other bodies,
5. planned arrangements or examinations under public auspices, if these arrangements or examinations would lose their meaning or not achieve their intended results upon becoming common knowledge,
6. environmental matters such as the location of rare minerals, fossils or rock formations, or the habitats of rare species of organisms, if revealing this material might seriously affect the protection of the environmental aspects to which the information relates.

Article 11

Additional access

Access to material may be granted to a greater degree than required by this Act, insofar as doing so is not barred by any other rules of law, inter alia legislative provisions on confidentiality and the protection of privacy.

When government authorities, cf. the first paragraph of Article 2, refuse a request for access to material on the basis of Sub-paragraphs 2-5 in Article 6 or of Article 10, a position shall be taken on whether access should be granted to a greater degree than that required, cf. the first paragraph of this article.

Article 12

Cessation of limitations to the right to information

If no other limitations apply according to this Act, access shall be granted to the following:

1. material covered by Sub-paragraphs 1-3 and 5 of Article 6, once eight years have passed since this material came into being,
2. material covered by Sub-paragraph 5 of Article 10, as soon as the arrangements or examinations are completely finished,
3. material covered by Sub-paragraph 6 of Article 10, when there is no longer any reason to expect that communicating the information might have a damaging effect on the environment.

Once 30 years have passed since material came into being, the cessation of other limitations shall be subject to the provisions of the Act on the National Archives of Iceland, cf. the fourth paragraph of Article 4.

Article 13

Providing information at the government's own initiative

Government authorities shall regularly provide the public with information on government activities, for instance by publishing reports electronically, summarising important programmes or publishing other types of material.

Government authorities shall act systematically towards making case files and lists of case materials as well as the materials themselves electronically accessible. The same applies to databases and data files. Caution must be exercised so that publication never conflicts with individual or public interests.

The minister shall submit regular reports to the Althing on the implementation of this Act, including achievements related to augmenting public access to information. The minister shall also take the initiative in determining information policy for five-year periods, prepared in consultation with the public, the Union of Icelandic Journalists, the Association of Local Authorities, archivists at public archives and the university and scientific community. One of the aims shall be to fulfil the needs of a democratic society for sophisticated, reliable information.

By means of regulations, the minister shall provide further details on how the publication of information must be arranged pursuant to the first and second paragraphs, including details on the allowable phases and time limits for government authorities to fulfil particular objectives and also details on how and where information must be published. In addition, these regulations shall explain how government authorities must act in order to ensure comparable access to material which came into being before the commencement of this Act. Insofar as possible, the public is to be guaranteed equal access to published information, and publication among government authorities is to be standardised. Rules shall also be laid down by the minister to ensure insofar as possible that the publishing of information will benefit disabled persons to the same extent as others. The minister's regulations according to this paragraph shall be binding also for local authorities and their institutions.

CHAPTER III

Each party's access to information on itself

Article 14

Each party's right to information

Any party so requesting must be provided with personal access to available material if it contains information about this party.

Nonetheless, the provision of the first paragraph shall not apply to the following:

1. material listed in Article 6,
2. material containing information about substantial public interests which ought to remain secret according to Article 10.

If the material also contains information on the private affairs of other individuals, it is permissible to restrict a party's access to it, providing that the interests which call for keeping the information secret are more important than those of the party requesting access to the material.

A patient's access to medical records shall be subject to provisions of the Health Records Act.

Insofar as applicable, the provisions of Articles 5, 11 and 12 shall pertain to the party's

access to material.

CHAPTER IV

Procedures

Article 15

Delimitation of requests for access to information

The party requesting access to material must specify it or the contents of the matter it relates to with enough clarity to allow for delimiting the request, without significant effort, to specific material or a specific matter.

It may be required to state the request on a form which is provided.

The request may be dismissed, if delimiting it to specific material or a specific matter is considered impossible, based on the available information. Before such dismissal, however, the party to the matter must be provided with guidance and the opportunity to delimit the request more precisely. Depending on the circumstances, the government authority shall be required to provide the party with a list of the matters towards which its request is felt perhaps to be directed, in order for the party to be able to indicate the matter for which it wishes to have access to material.

In exceptional cases, a request may be refused, should any of the following apply:

1. handling the request would take so much time or demand so much work that fulfilling it is considered insurmountable for these reasons,
2. there are strong indications of the request being presented for an illegitimate purpose.

Article 16

Where to address requests

When access is requested to the material of a case in which an administrative decision is to be taken or has been taken, the request shall be addressed to the party which has taken or will be taking a decision in the case. In other instances, the request shall be addressed to the party safeguarding the material.

Requests for material covered by Article 7 shall be addressed exclusively to the employer involved.

In instances where material covered by this Act has been turned over to the National Archives or another public archive, the archive involved is competent to decide on access to the material and on whether a photocopy or replication of the material is to be provided, based on this Act or the Act on the National Archives of Iceland, depending on the age of the material.

Article 17

Speed of process

A decision on whether to comply with a request for access to material shall be taken as soon as possible. Should a request not be handled within seven days of when it was received, the requester must be informed about the reasons for this delay and about the expected time of decision. However, the deadline for handling a request falling under Article 33 shall be 20 days.

Before deciding on access to material which might concern private interests, the government authority, or the individual handling the request, may appeal to the person whom the information concerns to clarify whether that person thinks that the information should remain secret. A deadline of seven days shall be provided for answering such an appeal.

Article 18

Handing over material and charging fees

Insofar as possible, the access provided to material shall be in the form or format as well as the language in which it has been preserved, unless this material is already available to the public, cf. the second paragraph of Article 19. In instances where the material has been preserved in electronic form only, the party may choose between receiving it in that form or printed on paper.

In instances of numerous documents, other entities may be asked to see to photocopying them. The same applies if the person handing over the material has no facilities for photocopying documents. In such cases, the requester shall pay the cost entailed in photocopying the documents. The same applies to copying material other than documents,

depending on the circumstances.

Through a list of fees, the minister shall determine what must be paid for photocopies and other copies of material which are handed over according to this Act, so that the expenses incurred will be met, including the costs of material and expenses due to equipment and staff work.

Prepayment may be demanded if the cost of copying or photocopying can be foreseen to exceed ISK 10,000.

Article 19

Rationale, announcement and instructions

If a request for access to material was presented in writing, any decision to refuse this request, whether in part or in whole, must be communicated in writing, briefly outlining the reasons. The decision shall include the opinion of the government authority on additional access, as referred to in the second paragraph of Article 11, and instructions on the right of appeal, as provided for in Article 20.

In instances where a request for access to material is handled by noting that the requested information is already available to the public, and if the material requested is not being handed over, exact mention must be made of where and in what manner the information is available.

When access is granted to material to which a third person has a legally protected right, pursuant to the Copyright Act, information shall be provided on the name of the rights holder, if such information is available.

In other respects, procedure shall be governed by the Administrative Procedures Act.

CHAPTER V

The Information Committee

Article 20

Right of appeal

Refusal of a request for access to material according to this Act may be referred to an Information Committee, which shall rule on the dispute. The same applies to refusal by a government authority of a request to turn over material in the form that was requested.

Decisions according to the third paragraph of Article 2 or according to Article 33 shall not be subject to review by the Committee.

This Committee shall operate independently, and its rulings according to this Act may not be referred to any other government authority.

Article 21

The Information Committee

The minister shall appoint to the Information Committee three persons for terms of four years, and an equal number of substitutes. Two Committee members, along with their substitutes, shall meet the employment qualifications for District Court judges, according to Article 12 of the Act on the Judiciary. One of these two members shall serve as Committee Chair and the other as Vice-Chair. No member of the Committee may be permanently employed by the Government Offices of Iceland.

The Committee is authorised to call on experts for advice and assistance whenever it finds this necessary.

Committee members are bound to secrecy on anything appearing in material provided to the Committee. This also applies to anyone on whom the Committee might call for assistance.

Article 22

Procedures

Cases falling under the first paragraph of Article 20 shall be referred in writing to the Information Committee no later than 30 days after a decision was announced to the party requesting access to material.

Before finally resolving the case, the Committee may grant the entity against whom the appeal is directed a brief period in which to present a substantiated opinion on the case. The entity against whom the appeal is directed is obligated to provide the Committee with a copy of the material to which the appeal is related, insofar as this entity falls under the scope of this Act according to Chapter I. In its letter requesting a copy of the material according to

this paragraph, the Committee may dictate that any material turned over to it in confidentiality must be particularly identified.

Should the Committee members not agree on the case, the majority shall determine its outcome. In the event of a tie, the Chair has the casting vote.

Proceedings of the Information Committee shall in other respects comply with Chapter VII of the Administrative Procedures Act.

Article 23

Notification and enforceability of rulings

The Information Committee shall announce its ruling as quickly as possible to the party that requested access to material and to the entity against whom the appeal was directed.

If the Committee has accepted the request for access to the material, such access must be provided as soon as the ruling has been announced, unless a deferment of legal effect has been demanded, pursuant to Article 24.

The rulings according to this Act which concern accessing material or copies of it are enforceable, unless their legal effect has been deferred.

Article 24

Deferment of the legal effect of rulings

In cases where the Information Committee has assigned a government authority or other entity to provide access to material, the Committee may also decide, upon the demand of the entity involved, to defer the legal effect of its ruling if it considers there to be a particular reason for doing so. A demand to this effect must have been received by the Information Committee no later than seven days after the ruling was announced.

Any deferment of a ruling's legal effect shall be subject to the condition that the case be referred to the courts, together with a request that it receive priority treatment, within seven days of when the decision to defer legal effect was announced. Should the request for priority treatment be denied, proceedings shall nevertheless be initiated no later than seven days after the denial.

Article 25

Publication of rulings

The Information Committee shall publish its rulings, or summaries thereof, at least once a year. Publishing the rulings on an openly accessible website shall be considered adequate publication.

CHAPTER VI

Records of cases, etc.

Article 26

Records of cases

Records, document lists and other means of storing case material or information are subject to provisions of the Act on the National Archives of Iceland.

Article 27

Recording information on the circumstances and proceedings of cases

When processing a case involving any decision on the rights or obligations of a person, government authorities as well as other entities covered by this Act are required to record any information which is given orally on the circumstances of the case or which these entities gain knowledge of in some other manner, if the information is of consequence for resolving the case and is not found anywhere else in the case material. The same applies to the main decisions on case proceedings and the main reasons for decisions, provided they do not appear in other case material.

Government authorities shall otherwise ensure the safeguarding of important information, for instance by filing the minutes of meetings, as applicable. The same applies to legal entities in the sense of the second paragraph of Article 2 and of Article 3, to the extent that this Act covers their activities.

CHAPTER VII
Re-use of public sector information

Article 28

Purpose and scope; transposition

The purpose of this Chapter is to increase the re-use of public sector information, for the benefit of society as a whole. This Chapter also provides for harmonised criteria on re-using public sector information; cf. Decision No. 105/2005 of the EEA Joint Committee, whereby Directive 2003/98/EC of the European Parliament and of the Council, of 17 November 2003, on the Re-use of Public Sector Information, was incorporated into Annex XI of the EEA Agreement.

The re-use of public sector information refers to a private person or entity using such information for a different purpose than intended when the information was originally gathered on behalf of government authorities. In this sense, the exchange of information between government authorities for assistance in their activities is not considered a re-use of information.

The provisions of this Chapter apply exclusively to the re-use of existing information which is in the keeping of government authorities and which the public has a right to access, based on Article 5 of this Act or other legislative provisions that grant the public such a right.

The provisions of this Chapter do not apply to the following:

1. information compiled by government authorities for commercial purposes,
2. material, files and information from databases to which a third person has a legally protected right, according to the Copyright Act. However, the provisions of this Chapter do apply when the State, local authorities or their institutions, within the meaning of the first sentence of the first paragraph of Article 29, alone hold the rights to such information, provided that the government authority in charge of representing these rights does not fall under the third paragraph of Article 29.

Article 29

Definition of the public sector bodies falling under the provisions of this Chapter

The provisions of this Chapter cover the State, local authorities, their institutions and other public sector bodies, cf. the second paragraph. This Act applies also to any associations that might be formed by these entities, either singly or together.

A body is considered a public sector body if it is legally capable of having rights and obligations and was especially established in order to serve public interests, provided that this body maintains no operations which can be equated with the operations of private sector bodies, for instance in the field of trade or industry. Furthermore, one of the following points must apply to this body:

1. its operations are for the most part financed by the State or local authorities, their institutions or other public sector bodies. The body shall be considered financed for the most part by the State or local authorities, their institutions or other public sector bodies if public funding accounts for over 50% of annual operating costs.
2. it is under the administration of the State or local authorities, their institutions or other public sector bodies.
3. it is under a special board which for the greater part is appointed by the State or local authorities, their institutions or other public sector bodies.

In spite of the provisions of the first and second paragraphs, the provisions of this Chapter do not apply to the following:

1. The Icelandic National Broadcasting Service,
2. schools at any level, libraries, archives and research institutions,
3. cultural institutions.

Notwithstanding the provision of the third paragraph, the minister concerned may prescribe by regulation that the activities of a government authority which pertains to that minister and is covered by that provision be nonetheless subject to the provisions of this Chapter, in part or in whole.

Article 30

General conditions for re-using public sector information

It is permissible to re-use public sector information which according to law is accessible to the public, provided that the following requirements are always fulfilled:

1. re-use of the information must not violate the law, *inter alia* provisions of the General Penal Code, Copyright Act and Act on the Protection of Privacy as Regards the Processing of Personal Data, or the rights of a third person,
2. the source of the information must be mentioned,
3. when information is made accessible to others, it must be clearly stated who bears responsibility for processing it.

Article 31

Re-using information from public sector files

When access is granted to information from public sector files pursuant to the first paragraph of Article 11 or the provisions of special acts, the government authority shall be authorised to stipulate that re-using the information will be subject to licence and will have to fulfil specific requirements, such as on the quality and the updating of data, etc. Consistency and equality shall be ensured when formulating such requirements, and the requirements may never excessively restrict competition or the possibilities for re-using the information.

On its websites, a government authority shall display a list of the files containing information which is kept by the authority and which may be re-used, in addition to displaying the conditions placed on such re-use.

An application for permission to re-use information from a public sector file shall be addressed to the government authority which according to law holds responsibility for entering and processing the information in the file concerned.

A government authority shall finish as quickly as possible its processing of applications for permission to re-use information from public sector files. If a request has not been processed within 20 days of when the application was received, the reasons for the delay must be explained, along with when a decision is to be expected.

Should a government authority refuse to grant permission for re-using information on the grounds of Sub-paragraph 2 of the fourth paragraph of Article 28, the name of the rights holder or her/his agent must be specified.

Fees may be charged for providing access to information from public sector files, based on the second and third paragraphs of Article 18. The government authority concerned shall determine its schedule of fees, to be approved by the minister. This schedule of fees shall both be advertised in Section B of the *Law and Ministerial Gazette* and also be accessible on the government authority's website.

Unless specifically dictated by law, it shall not be necessary to pay more for re-using information that falls under the provisions of this Chapter and is subject to a copyright held by the State or local authorities than what is indicated in the sixth paragraph.

When a government authority makes information accessible to the public on the Internet, based on an agreement with a third person who has a legally protected right to it according to the Copyright Act, the name of the rights holder must be specified.

Article 32

Prohibition of agreements on exclusive rights

No government authority may make agreements on any exclusive right to re-use public sector information subject to the provisions of this Chapter, cf. however the second paragraph.

When it may be presumed that public sector information will not be re-used in the service of public interests without basing its re-use on an exclusive right, making such an agreement shall be permissible, provided the reasons are stated for doing so. The reasons for exclusive agreements must be reviewed regularly, or no less often than every three years.

CHAPTER VIII

Access to material for research purposes

Article 33

Access to material for research purposes

A government authority, cf. the first paragraph of Article 2, is authorised in cases of research or similar undertakings to provide access to material which is exempted by Chapters II and III from the right to information, insofar as approving the particular request may be expected not to curtail the public and private interests which the provisions of these Chapters are intended to protect. Such a request must clarify the purpose for which access is

desired. The permit for access according to this Article must be in writing.

If a government authority's material includes sensitive personal information, as this is defined in the Act on the Protection of Privacy as Regards the Processing of Personal Data, or if communicating the material entails a special risk that the rights and liberties of incorporated bodies may be violated, the government authority shall obtain approval from the Data Protection Authority before divulging the information. The Data Protection Authority shall establish more detailed rules about the requirement for a permit, and may decide to drop the requirement to obtain a permit once general rules and security standards have been established to accompany any such communication of information.

The government authority may place conditions on access according to the first paragraph. These conditions must be based on considerations of the nature of the information to which access is to be granted and on the underlying purpose of the application for access. The government authority may set as conditions that:

1. no information on private matters, including financial matters, will be communicated any further,
2. the individuals mentioned in a particular document, as well as their blood relatives and relatives by marriage, will not be contacted,
3. a particular document will not be published in its entirety,
4. no copies will be made of a particular document,
5. information to which access is granted will not be published in the research conclusions in a manner whereby persons could be identified.

In special circumstances, other conditions may be laid down than those stated in the third paragraph.

Article 34

Penalties and compensation

A party obtaining access to material according to Article 33 may neither publish, hand over nor use the information it has thus obtained access to in any other manner than that dictated in the permit from the government authority.

If a party which has received access to material according to Article 33 violates the provision of the first paragraph by intent or gross negligence, it shall be subject to a fine or imprisonment for up to three years.

Should a party, according to the first paragraph, have committed a violation by intent or gross negligence, it may be sentenced to pay compensation for harm and financial losses to any party whom the information concerns.

CHAPTER IX

Entry into force, etc.

Article 35

Entry into force

This Act shall enter into force immediately. Nonetheless, the provisions of the second and third paragraphs of Article 2 shall not be implemented until six months after this Act has entered into force. Upon the entry into force of the present Act, the Information Act, No. 50/1996, as subsequently amended, shall be repealed.

The provisions of this Act apply to all material and information covered by it, regardless of when the material or information came into being or of when it reached a party to which information must be provided according to this Act.

Notwithstanding the second paragraph, the provisions of this Act apply only to the material or information kept by legal entities in the sense of the second paragraph of Article 2 and of Article 3 which comes into being after this Act has taken effect. On the other hand, this does not apply when the appropriate entity has been entrusted with taking administrative decisions. The provision in Sub-paragraph 1 of the first paragraph of Article 12 applies only to the material which comes into being after this Act has entered into force.

Notwithstanding the provisions of the first paragraph, the provisions of the Information Act, No. 50/1996, shall upon the commencement of the present Act retain their effect until 1 January 2016 as regards municipalities numbering fewer than 1,000 residents.

This Act is effective from 1 January 2013

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