

**SASKATCHEWAN
INFORMATION AND PRIVACY COMMISSIONER**

REVIEW REPORT 139/2014

Saskatchewan Research Council

Summary: Saskatchewan Research Council (SRC) received an access to information request. In response, it indicated to the Applicant that fees would be applied to the record. The Applicant was dissatisfied with the estimate and requested a review. The Commissioner found that SRC did not provide enough information to support its fee estimate. He found that a reasonable fee estimate would be \$165.

I BACKGROUND

[1] On March 25, 2014, the Saskatchewan Research Council (SRC) received an access to information request from the Applicant. SRC responded in a letter dated April 23, 2014 providing some of the responsive records and indicating that fees would be applied to other portions of the responsive record. It also provided an interim notice indicating that some of the remaining responsive records would be subject to exemptions provided in *The Freedom of Information and Protection of Privacy Act* (FOIP).

[2] The Applicant was dissatisfied with SRC's response and requested a review by my office on November 25, 2014. On December 15, 2014, notification of this office's intention to undertake a review was provided to SRC and the Applicant.

II RECORDS AT ISSUE

[3] Within the Applicant's request was six items of different but similar categories of information. SRC provided records responsive to the first item to the Applicant. The fee estimate provided to the Applicant breaks down the search and preparation time for the other five items individually. The items are as follows:

Item	Request of Applicant
Item #2 – Argentina Records	2. Argentina Waste Disposal Project (Environment Division) <ul style="list-style-type: none"> a. Cost Data and Approval Data <ul style="list-style-type: none"> i. All trip expense details, i.e. airfare, hotels, meals, outside consulting fees and all other related costs (internal and external) under the project, ii. Approval documents (internal and external)
Item #3 – Software Records	3. Eco-system (carbon foot print) Software Development Project <ul style="list-style-type: none"> a. Cost Data and Approval Data <ul style="list-style-type: none"> i. All fees (and consulting contracts) paid to outside consultants including a person named Sanjay and all other related costs (internal and external) in respect of this project, ii. Approval documents (internal and external)
Item #4 - PowerPoint	4. Powerpoint created by the Requestor on "Purchasing Department Issues"
Item #5 - PowerPoint	5. Powerpoint created by the Requestor on "Eco-system (carbon foot print) Software Development Issues"
Item #6 – iPad Records	6. 450 iPad purchase <ul style="list-style-type: none"> a. Cost Data and Approval Data <ul style="list-style-type: none"> i. Receipt for entire payment to the vendor, ii. All approvals (internal and external)

III DISCUSSION OF THE ISSUES

[4] SRC qualifies as a government institution pursuant to subsection 2(d)(ii) of *The Freedom of Information and Protection of Privacy Act* (FOIP) and Part I of the Appendix in the FOIP Regulations.

1. Are the fees estimated by Saskatchewan Research Council reasonable?

[5] Section 9(3) of FOIP provides the SRC with the ability to issue a fee estimate to the Applicant where the amount will exceed the prescribed fee of \$50. Fee estimates are generally judged on the basis of whether they are reasonable.

[6] In past reports, my office has established that there are three kinds of fees that a public body can include in its fee estimate:

- fees for searching for a responsive record;
- fees for preparing the record for disclosure; and
- fees for the reproduction of records.

[7] SRC has applied search and preparation fees to the remainder of the request.

[8] My analysis is broken down into the remaining two kinds of fees to determine if SRC's fee estimate is reasonable for the remainder of the request.

a. Fees for searching for a responsive record

[9] Subsections 6(3) and 6(4) of the FOIP Regulations provide a government institution ability to recover costs associated with searching for responsive records. A public body should develop a search strategy when preparing its fee estimate.

[10] This office has previously stated that search time consists of every hour of manual search time required to locate and identify responsive records. For example, staff time involved with searching for records, examining file indices, file plans or listings of records either on paper or electronic, pulling paper files/specific paper records out of files, and/or reading through files to determine whether records are responsive. However, search time does not include time spent to copy the records, time spent going from office to office or off-site storage to look for records or having someone review the results of the search.

[11] Further, this office has previously established the following guidelines for estimating search time:

- Generally, it should take an experienced employee one minute to visually scan 12 pages of paper or electronic records to determine responsiveness;
- Generally, it should take an experienced employee five minutes to search one regular file drawer for responsive file folders.

- [12] In instances where the above tests do not accurately reflect the circumstances, the public body should design a search strategy and a representative sample of records for time estimates. The time estimates can then be applied to the responsive records as a whole.

Item #2 – Argentina Records

- [13] SRC indicated in the fee estimate that it would take two and a half hours for an electronic search for responsive records and two hours for a manual search.
- [14] SRC's submission detailed the work required to search for responsive records but failed to assign time values to the work and other details to justify the time noted in the fee estimate.

Item #3 – Software Records

- [15] SRC noted in the fee estimate that it would take five hours for an electronic search for responsive records and five hours for a manual search. Again, SRC's submission did not provide enough information to determine if the estimate is reasonable.

Items #4 and #5 - PowerPoint

- [16] Items #4 and #5 were for two distinct but similar PowerPoint presentations. SRC indicated that it would take a half hour to perform an electronic search for each PowerPoint presentation. However, this may have been a mistake as SRC's submission indicates a manual search is required.
- [17] SRC explained that it would be required to search through approximately 10 boxes and approximately five drawers for the responsive records. At five minutes per box or drawer, it would take approximately one hour and 15 minutes. Therefore, an estimate of a half hour per PowerPoint presentation is justified.

Item #6 – iPad Records

[18] Finally, SRC noted in the fee estimate that it would take 15 minutes for an electronic search for responsive records and a half an hour for a manual search. Again, SRC's submission did not provide me with enough information to determine if the estimate is reasonable.

b. Fees for preparation of a responsive record

[19] Subsection 6(2) of the FOIP Regulations allows the government institution to recover costs of preparing a record for disclosure. In previous reports, this office had established that an estimate of two minutes per page to prepare the records requiring severance is reasonable.

[20] I note that in its interim notice dated April 23, 2014, SRC advised the Applicant that exemptions under sections 18, 19, 21 and 29 of FOIP could be applied to records responsive to the sub-requests at issue in this review.

Item #2 – Argentina Records

[21] In the fee estimate, SRC communicated that preparation time for these responsive records would be a half an hour. In its submission, SRC estimated that the responsive record would be approximately 125 pages. At two minutes a page, preparation of the record could be more than four hours. Therefore, a half an hour is a reasonable estimate for preparation. Further, although SRC did not explain its search efforts for Item #2 with the requisite amount of detail, it is reasonable to estimate both the search and preparation would take four hours.

Item #3 – Software Records

[22] In the fee estimate, SRC indicated it would require five hours to prepare the record. However, its submission did not provide enough details to support this estimate.

Items #4 and #5 – PowerPoints

- [23] SRC estimated a half an hour each to prepare both of the PowerPoint presentations identified. In its submission it stated that it expected each document to be 20-25 pages in length. At two minutes per page, each document would take approximately an hour. An estimate of a half hour per PowerPoint presentation is reasonable.

Item #6 – iPad Records

- [24] SRC estimated that it would require 15 minutes to prepare the records responsive to Item #6. It estimated that there would be approximately 50 pages of responsive records. Using the established formula, an hour and a half would be reasonable. Again, SRC did not provide sufficient details of its search estimation. However, I believe an hour and a half would be a reasonable estimation for both search and preparation time.

c. Summary

- [25] Section 6(2) of the FOIP Regulations state the following:

6(2) Where time in excess of two hours is spent in searching for a record requested by an Applicant or in preparing it for disclosure, a fee of \$15 for each half-hour or portion of a half-hour of that excess time is payable at the time when access is given.

- [26] In other words, the Applicant is allowed two hours free search or preparation time on this request.

- [27] The following table sums up the hours of search and preparation time that I find to be reasonable for this request.

Item	Electronic Search Time	Manual Search Time	Preparation Time	Total
2	-	-	4	4
3	Not enough information	Not enough information	Not enough information	0
4	-	0.5	0.5	1
5	-	0.5	0.5	1
6	-	-	1.5	1.5
			Two hour 'free time'	-2
				5.5

[28] Section 6(2) of the FOIP Regulations allows government institutions to charge \$15 for every half hour of search or preparation time in excess of two hours. Based on the information provided to me by SRC, a reasonable fee estimate for this request would be \$165.

IV FINDINGS

[29] SRC has not provided enough information to determine if electronic search fees are reasonable for Items #2, #3 and #6.

[30] SRC has not provided enough information to determine if manual search fees are reasonable for Items #2, #3 and #6.

[31] SRC has not provided enough information to determine if preparation fees are reasonable for Item #3.

[32] SRC's other fee estimates are reasonable.

V RECOMMENDATIONS

[33] SRC should provide a fee estimate to the Applicant reflecting the \$165 fee determined to be reasonable in this report.

Dated at Regina, in the Province of Saskatchewan, this 25th day of February, 2015.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy
Commissioner