

**SASKATCHEWAN
INFORMATION AND PRIVACY COMMISSIONER**

REVIEW REPORT 144/2014

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's fee estimate was reasonable.

I BACKGROUND

[1] On March 12, 2014, the Saskatchewan Research Council received an access to information request from the Applicant. On April 9, 2014, SRC sought clarification from the Applicant on his access request. After receiving a response from the Applicant, SRC provided the Applicant with a fee estimate and interim notice on April 28, 2014. On May 11, the Applicant provided further clarification. It responded in a letter dated June 10, 2014 with a revised fee estimate for \$150.

[2] The Applicant was not satisfied with this response and requested a review from my office on December 17, 2014. My office provided notification of our intention to undertake the review to both the Applicant and SRC on the same day.

II RECORDS AT ISSUE

[3] The Applicant was seeking copies of communication between SRC and the Minister responsible regarding himself. The fee estimate breaks down electronic search time,

manual search time and preparation time. In responding to the Applicant's request, SRC provided the Applicant with some of the responsive records at no cost.

[4] SRC's interim notice of April 28, 2014 indicated that portions of the record may be withheld pursuant to sections 18, 19, 21 and 29 of *The Freedom of Information and Protection of Privacy Act* (FOIP).

III DISCUSSION OF THE ISSUES

[5] SRC qualifies as a government institution pursuant to subsection 2(d)(ii) of FOIP and Part I in the Appendix of the FOIP Regulations.

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

[6] 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.

[7] In past reports, my office has previously 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.

[8] SRC has applied search and preparation fees to the request.

[9] Our office has provided guidance in terms of formulas and tests for determining reasonable fees in past reports. The office has also said that in instances where the above tests do not accurately reflect the circumstances, the public body should design a search strategy and test a representative sample of records for time estimates. The time estimates can then be applied to the responsive records as a whole.

- [10] SRC estimated three hours for an electronic search, which includes older e-mails. SRC has indicated that it would be required to search the e-mail accounts of two individuals.
- [11] SRC also described its procedure for searching e-mails; which, it maintains, is “standard practice for similar companies”. The process requires approximately 20 minutes to restore one e-mail account and four hours to index it so that it could be searched by key words. For two e-mail accounts, this would require approximately nine hours.
- [12] SRC did not provide any details of its manual search. It did not provide an estimate of how many pages would require review to identify responsiveness. In its interim notice dated April 28, 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. It did not provide an estimate of how many pages would require preparation.
- [13] Nevertheless, the amount of time required to search e-mails exceeds the seven hours estimated by SRC. Therefore, I find this estimate to be reasonable. A government institution can charge \$15 per half hour after the first two hours of search and preparation time. Therefore, the \$150 fee estimate is reasonable.

IV FINDINGS

- [14] I find SRC’s fee estimate to be reasonable.

V RECOMMENDATIONS

- [15] I recommend that SRC take no further action until the Applicant pay the deposit outlined in SRC’s letter of June 10, 2014.

Dated at Regina, in the Province of Saskatchewan, this 20th day of February, 2015.

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