



REVIEW REPORT 155-2015

Saskatchewan Arts Board

February 10, 2016

Summary:

The Applicant submitted an access request to the Saskatchewan Arts Board (SAB) for work completed by a Third Party. The SAB responded to the request providing access to portions of the Composite Business Plan 2015-2016. The remaining portions of this report was denied pursuant to subsection 17(1)(a) of *The Freedom of Information and Protection of Privacy Act* (FOIP). It was found that subsection 17(1)(a) of FOIP was applied appropriately to portions of the report. It was recommended that the SAB release those portions where subsection 17(1)(a) of FOIP was found not to apply.

I BACKGROUND

[1] In an email dated June 18, 2015, the Saskatchewan Arts Board (SAB) received an access to information request from the Applicant for the following:

All contracts, reports, correspondence and invoices relating to work of Fraser Strategy and [name of individual] for the Saskatchewan Arts Board; including the communications analysis/report prepared for the board in 2014.

[2] Based on the SAB's June 30th response and records provided to the Applicant for this request, the Applicant requested further information:

- Report of research findings of Brand Audit, establishing a benchmark for rebranding.

- Strategic Communications Plan for the Saskatchewan Arts Board based on the results of the Brand Audit and in alignment with the agency's refreshed strategic plan.
- Measurement tools for Strategic Communications Plan and follow-up consultation.

[3] On July 30, 2015, the SAB responded to the Applicant providing portions of the record and denying access to the remainder of the record pursuant to subsection 17(1)(a) of *The Freedom of Information and Protection of Privacy Act* (FOIP).

[4] On August 6, 2015, the Applicant submitted a request for review to my office.

II RECORD AT ISSUE

[5] The record at issue is a 37 page Composite Business Plan 2015-2016 prepared for the SAB by Fraser Strategy. The SAB released pages 1, 3, 4, 5, 6 in full and released portions of pages 7 and 24.

III DISCUSSION OF THE ISSUES

1. Did the SAB properly apply subsection 17(1)(a) of FOIP to the record?

[6] Subsection 17(1)(a) of FOIP provides as follows:

17(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

(a) advice, proposals, recommendations, analyses or policy options developed by or for a government institution or a member of the Executive Council;

[7] The SAB's submission provided the following regarding the application of this exemption:

The Saskatchewan Arts Board submits that the business specifically contains analysis of the current state of operations of the Saskatchewan Arts Board. The report goes on to make specific proposals and recommendations related to that analysis.

The Saskatchewan Arts Board submits that the business plan was the primary responsibility of Fraser Strategy who sought the inputs and prepared the report. The report was commissioned by the board of the Saskatchewan Arts Board in order to make specific decisions related to the operations and day to day management of the Saskatchewan Arts Board and its staff.

[8] The test for applying subsection 17(1)(a) of FOIP is as follows:

1. Does the information qualify as advice, proposals, recommendations, analyses or policy options?
2. The advice, recommendations, proposals, analyses and/or policy options must:
 - i) be either sought, expected, or be part of the responsibility of the person who prepared the record; and
 - ii) be prepared for the purpose of doing something, for example, taking an action of making a decision; and
3. Was the advice, recommendations, analyses and/or policy options developed by or for a government institution or a member of the Executive Council?

[9] I will consider each of these parts of the test for the withheld record.

1. Does the information qualify as advice, proposals, recommendations, analyses or policy options?

[10] Advice includes the analysis of a situation or issue that may require action and the presentation of options for future action, but not the presentation of facts. Advice has a broader meaning than recommendations.

[11] Recommendations relate to a suggested course of action as well as the rationale for a suggested course of action. Recommendations are generally more explicit and pointed than advice.

- [12] Proposals, analyses and policy options are closely related to advice and recommendations and refer to the concise setting out of the advantages and disadvantages of particular courses of action.
- [13] The record contains the analysis of issues faced by the SAB and a recommended course of action to address these issues. As well, it identifies objectives for the organization, the rationale for these objectives as well as the course of action to meet these objectives.
- [14] Based on a review of the record, I find that with the exception of numbers one through six of the table of contents on page two of the record, the information contained in the record would qualify as advice and recommendations.
- [15] The first part of the test is met.

2. The advice, recommendations, proposals, analyses and/or policy options must:

- i) be either sought, expected, or be part of the responsibility of the person who prepared the record; and***
- ii) be prepared for the purpose of doing something, for example, taking an action or making a decision; and***

- [16] As noted earlier, SAB's submission indicated that the SAB contracted with Fraser Strategy to prepare this report for the SAB. The report was prepared for the SAB in order for the board of SAB to make decisions regarding the operations and day to day management of the SAB and its employees.
- [17] Based on this, it appears that the second part of the test would be met.

3. Was the advice, recommendations, analyses and/or policy options developed by or for a government institution or a member of the Executive Council?

- [18] The advice and recommendations found in this report were developed for the SAB. The SAB is considered to be a government institution under FOIP.

[19] Based on this, it appears the third part of the test is met.

[20] As all three parts of the test have been met, I find that subsection 17(1)(a) of FOIP was appropriately applied to the record, with the exception of the numbers one through six of the table of contents on page two of the record.

[21] The table of contents on page two of the record refers to six sections of the report that are very general in nature and does not appear it would reveal anything that has not already been revealed in the released portions of the record. Therefore, these six lines should be released. The table of contents also contains a number of subcategories that contain specific information that would reveal information regarding the recommendations found in the report. These subcategories should continue to be withheld.

IV FINDING

[22] I find that the SAB has appropriately applied subsection 17(1)(a) of FOIP to all pages of the record, with the exception of numbers one through six of the table of contents on page two of the record.

V RECOMMENDATION

[23] I recommend that the SAB release numbers one through six of the table of contents on page two of the record.

Dated at Regina, in the Province of Saskatchewan, this 10th day of February, 2016.

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