



## **REVIEW REPORT 164-2015**

### **Ministry of Labour Relations and Workplace Safety**

**September 25, 2015**

**Summary:** The Applicant submitted a request to the Ministry of Labour Relations and Workplace Safety (LRWS). LRWS responded to the Applicant by stating that no records exist pursuant to subsection 7(2)(e) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Applicant appealed to the Information and Privacy Commissioner (IPC). The IPC found that LRWS made reasonable efforts to search for records. Therefore, he made no recommendations as he was satisfied with the efforts made by LRWS.

#### **I BACKGROUND**

- [1] On July 2, 2015, the Ministry of Labour Relations and Workplace Safety (LRWS) received an access to information request for “site inspection and safety records”. The Applicant provided the name of the third party organization, the description “welders working in deep water near shoring wall” and the name of the inspector with whom he spoke. He also provided the timeline of October 18, 2012 to November 13, 2012.
- [2] In a letter dated July 24, 2015, LRWS responded to the Applicant indicating that no records exist pursuant to subsection 7(2)(e) of *The Freedom of Information and Protection of Privacy Act* (FOIP).
- [3] On August 13, 2015, my office received a Request for Review from the Applicant.
- [4] On August 20, 2015, my office notified LRWS and the Applicant of its intention to undertake a review.

## **II RECORDS AT ISSUE**

[5] The focus of this review is on the search efforts conducted by LRWS.

## **III DISCUSSION OF THE ISSUES**

[6] LRWS is a “government institution” as defined by subsection 2(1)(d)(i) of FOIP.

### **1. Did LRWS conduct an adequate search?**

[7] Section 5 of FOIP provides the right of access as follows:

5 Subject to this Act and the regulations, every person has a right to and, on an application made in accordance with this Part, shall be permitted access to records that are in the possession or under the control of a government institution.

[8] Section 5 provides individuals with the right of access to records in the possession or under the control of a government institution. FOIP does not require a government institution to provide with absolute certainty that records do not exist. It must however, demonstrate that it has made a reasonable effort to identify and locate responsive records.

[9] A reasonable search is one in which an experienced employee expends a reasonable effort to locate records which are reasonably related to the request. The threshold that must be met is one of “reasonableness”. In other words, it is not a standard of perfection, but rather what a fair and rational person would expect to be done or consider acceptable.

[10] In its submission, LRWS described its records management system as follows:

- Paper – documents are filed alphabetically in a folder by Company Name, Mine site and year.
- Electronic – In The Operational Records Management Schedule (ORS) documents are filed by year, company name, activity type and document type.
- In The Safety Information Management System (SIMS) documents are filed by year, company name, document type.

- In the LINKS database (use discontinued April 1, 2014), documents are filed by company name, year, document type.

[11] LRWS provided screenshots of its electronic filing systems to show how documents are organized. The screenshot reflected the bulleted description above.

[12] Then, it provided granular details specific to its search efforts in this review file. Its efforts were detailed in the table below.

Date	FOI Request	Unit	Action	RMS	RC	Time
8/20/2015	LRWS 20-2015G	MSU	Chief Mines Inspector [Name of Chief Mines Inspector] looked through 2011, 2012 and 2013 files	Cabinet	Year	45 minutes
			[Name of Chief Mines Inspector] looked through 2011, 2012 and 2013 Dangerous Occurrence Files	Cabinet	Year	30 minutes
			[Name of Chief Mines Inspector] looked through 2011, 2012 and 2013 [name of third party organization] files	ORS	Year	30 minutes
			[Name of Chief Mines Inspector] looked through 2011, 2012 and 2013 Dangerous Occurrence Files	ORS	Year	60 minutes
			[Name of Chief Mines Inspector] looked through old inspector archives from 2011, 2012 and 2013	ORS	Year	90 minutes
		MSU	[Name of Mines Inspector assigned to third party] Mines Inspector assigned to [name of third party organization], looked through 2011 [name of third party organization] files	Links	Year	40min
		MSU	[Name of Mines Inspector assigned to third party] looked through 2012 [name of third party organization] files	Links	Year	30min
		MSU	[Name of Mines Inspector assigned to third party] looked through 2013 [name of third party organization] files	Links	Year	20min
		MSU	[Name of a Mines Inspector], Mines Inspector, looked through 2012 [name of third party organization] files	Cabinet	Year	2hrs
		MSU	[Name of Mines Inspector assigned to third party] looked through 2012 [name of third party organization] files	ORS	Year	10min

RMS – Record management System  
 RC – Record Classified  
 MSU – Mines Safety Unit

[13] Based on the material provided to my office, I find that LRWS made a reasonable effort to search for records for three reasons. First, it was able to explain to my office how its paper and electronic records are organized. The screenshots it provided to my office showed that it consistently organized files in the same manner for each third party organization it deals with. Second, three employees who would have familiarity with the requested records were involved in the search. While it would be logical to also include the inspector whom the Applicant named in his request in the search, LRWS explained that the inspector whom the Applicant named in his request was now retired. However, based on the table above, the Chief Mines Inspector searched through three years of archived electronic records of the retired inspector in an attempt to locate responsive

records but he did not locate such records. Paper records were also searched from 2011 to 2013 in an attempt to locate responsive records but no records were located. Third, even though the Applicant had only requested records from 2012, LRWS also searched 2011 and 2013 files in an attempt to locate responsive records.

[14] Based on what was provided to my office, I find that LRWS has demonstrated that its search for records responsive to the Applicant's access to information request was reasonable and adequate for the purposes of FOIP.

#### **IV FINDINGS**

[15] I find that LRWS has demonstrated that its search efforts for records responsive to the Applicant's access to information request were reasonable and adequate for purposes of FOIP.

#### **V RECOMMENDATIONS**

[16] There are no recommendations to be made at this time as I am satisfied with the efforts made by LRWS.

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

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