



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 274-2019

Ministry of Central Services

November 5, 2020

Summary: The Applicant submitted a request for review of the Ministry of Central Services (Central Services) decision to deny access to requested records pursuant to subsections 17(1)(a), 17(1)(b), 18(1)(d), 18(1)(e), 18(1)(f), 19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii), 29(1) and section 21 of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Commissioner found that Central Services appropriately applied exemptions to withhold information to some portions of the responsive records, but other portions had not been withheld appropriately. The Commissioner recommended that Central Services withhold certain portions of the responsive records and release the remaining portions.

I BACKGROUND

[1] On June 3, 2019, the Applicant submitted an access to information request to the Ministry of Central Services (Central Services) requesting the following records for the time period November 1, 2018 to June 3, 2019:

RE: [A certain parcel of land] including the Interior and/or exterior of the premise and/or lands.

1. Copies of all signed agreements which are currently in effect regarding the property.
2. Copies of any documents which are or can be registered on title to show any interests in the property.
3. Copy of any assignments or documents signed regarding the property.
4. Copies of any option agreements regarding the property.
5. Listing of any government departments which have requested interest in the property and correspondence between any government department regarding the property and list of all tenders made for the property between November 1, 2018 and June 3, 2019.
6. Correspondence between the property owner and/or management and the government regarding the property.

7. Payments received and/or made regarding the property including date, location, size, Reason for payment.
- [2] On June 17, 2019, Central Services responded providing the Applicant with a fee estimate and requesting a deposit in order to proceed with processing the request.
- [3] On June 24, 2019, Central Services provided the Applicant with a receipt for the fee estimate deposit.
- [4] On August 1, 2019, Central Services responded advising it would withhold portions of the responsive records pursuant to subsections 17(1)(a), 17(1)(b), 18(1)(d), 18(1)(e), 18(1)(f), 19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii), 29(1) and section 21 of *The Freedom of Information and Protection of Privacy Act* (FOIP). Central Services also stated that the Applicant and third parties had 20 days to request a review pursuant to subsection 37(2)(a) and section 49 of FOIP.
- [5] On August 13, 2019, the Applicant requested my office undertake a review.
- [6] On August 21, 2019, Central Services released the portions of the record it was not redacting pursuant to the subsections identified in the August 1, 2019 letter.
- [7] On August 29, 2019, my office notified the parties of my intention to undertake a review.
- [8] On October 15, 2019, Central Services released pages B22 to B25 in full to the Applicant. These pages of the record had previously been withheld in part.

II RECORDS AT ISSUE

- [9] Central Services identified 9 packages of records, summarized in the table below. For more details on these records, refer to Appendix A of this Report.

Index of Records – Review 274-2019			
Page Number(s)	Description	Exemptions	Status
Package A Pages 1 to 82	Lease agreement between Central Services and 3346286 Manitoba Ltd. for [a certain parcel of land]	18(1)(d), 18(1)(e), 18(1)(f), 19(1)(a), 19(1)(b), 19(1)(c)(ii), 19(1)(c)(iii)	Released in part.
Package B Pages 1 to 141	Correspondence between the Central Services and 3346286 Manitoba Ltd./Shindico regarding [a certain parcel of land]	18(1)(d), 18(1)(e), 18(1)(f), 19(1)(a), 19(1)(b), 19(1)(c)(ii), 19(1)(c)(iii)	Released in part.
Package C Page 1 and 2	GS25 initiating monthly rent payments to 3346286 Manitoba Ltd. for [a certain parcel of land]	18(1)(d), 18(1)(e), 18(1)(f), 19(1)(b), 19(1)(c)(ii), 19(1)(c)(iii)	Released in part.
Package D Pages 1 to 191	Correspondence between the Central Services and the Ministry of Highways pertaining to Highway's program requirements to occupy [a certain parcel of land]	17(1)(a), 17(1)(b)(i), 18(1)(d), 18(1)(e), 19(1)(b), 19(1)(c)(ii), 19(1)(c)(iii)	Released in part.
Package E Pages 1 to 5	March 2019 Ministry of Highways Rent Invoice for [a certain parcel of land]	Non-Responsive	Released in part.
Package F Pages 1 to 4	April 2019 Ministry of Highways Rent Invoice for [a certain parcel of land]	Non-Responsive	Released in part.
Package G Pages 1 to 5	May 2019 Ministry of Highways Rent Invoice for [a certain parcel of land]	Non-Responsive	Released in part.
Package H Pages 1 to 5	June 2019 Ministry of Highways Rent Invoice for [a certain parcel of land]	Non-Responsive	Released in part.
Package I Pages 1 to 246	Construction contract between the Central Services and Hipperson Construction Ltd. for [a certain parcel of land]	19(1)(b), 19(1)(c)(ii), 19(1)(c)(iii), 29(1)	Released in part.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[10] Central Services is a government institution pursuant to subsection 2(1)(d)(i) of FOIP. Therefore, I have jurisdiction to conduct this review.

[11] Further, subsection 2(1)(j) of FOIP defines a third party as follows:

2(1) In this Act:

...

(j) “**third party**” means a person, including an unincorporated entity, other than an applicant or a government institution.

[12] Central Services has identified 3346286 Manitoba Ltd. and Hipperson Construction as third parties pursuant to subsection 2(1)(j) of FOIP in relation to the records at issue.

2. Was there information in the records that was not responsive to the access to information request?

[13] Central Services identified portions of records E, F, G, and H as non-responsive to the Applicant’s request.

[14] When a government institution receives an access to information request, it must determine what information is responsive to the access to information request.

[15] *Responsive* means relevant. The term describes anything that is reasonably related to the request. It follows that any information or records that do not reasonably relate to an Applicant’s request will be considered “not-responsive”. An applicant’s access to information request itself sets out the boundaries of relevancy and circumscribes the records or information that will ultimately be identified as being responsive.

- [16] A government institution can sever information as non-responsive only if an applicant has requested specific information, such as their own personal information. The government institution may treat portions of a record as non-responsive if they are clearly separate and distinct and not reasonably related to the access to information request.
- [17] The purpose of FOIP is best served when a government institution adopts a liberal interpretation of a request. If a government institution has any doubts about its interpretation, it has a duty to assist an applicant by clarifying or reformulating the request.
- [18] In its submission, Central Services indicated that it redacted information as non-responsive because the information related to properties other than the one identified by the Applicant. Information related to the property identified by the Applicant was released.
- [19] Upon review, the records list information about all accommodation charges for a given month for each of the Ministry of Highways and Infrastructure (Highways) properties prepared by Central Services. I agree that the information redacted is non-responsive and does not relate to the information requested by the Applicant. While I agree that the information is non-responsive to the Applicant's request, if no exemptions apply to the information, I would encourage Central Services to consider releasing this information.

3. Does subsection 19(1)(b) of FOIP apply to the record?

- [20] Subsection 19(1)(b) of FOIP provides:

19(1) Subject to Part V and this section, a head shall refuse to give access to a record that contains:

...

(b) financial, commercial, scientific, technical or labour relations information that is supplied in confidence, implicitly or explicitly, to a government institution by a third party;

- [21] Central Services' submission provides as follows:

The Responsive Records in this case contain agreements, correspondence and negotiated terms of the relationship between Government and the Third Parties relating to the construction renovation and lease of the Premises. The Responsive Records are documentation that includes both information of the Government and information of the Third Parties. The Government accepts the general descriptions of Financial and Commercial Information as contained in the IPC Guide would apply to the information contained in the Responsive Records. The terms and definitions for Scientific, Technical or Labour Relations Information would not be applicable to the Responsive Records.

...

The Government submits that the Responsive Records, which incorporate the Third Party response to the Competition are simultaneously both Government information that provide details of the Government's negotiation strategy and economic interests, and commercial information of the Third Party. **The Responsive Record is an enmeshed compilation that discloses both parties' interest in reaching a negotiated temporary position to advance their future negotiations.**

The third party information included in the Third Party correspondence and in the Hipperson and Kreate Contract documents includes personnel information. Organization charts that include personal names of staff, who they report to, rates of pay and their job duties are included. This information is in line with the description of Labour Relations Information provided under the OIPC Guide for s. 19(1)(b).

The information in the Responsive Records, is, as stated above, a **compilation of the proposal response provided to the Government by the Third Party in response to the Competition Regina RG5002-2018.** Added to the proposal information are the negotiated terms and conditions agreed to between the Government and Third Party to reach the finalization and Agreement. The Third Party information originates from their response to the Competition and their **negotiated terms and conditions.** The final Agreement and correspondence with the Third Party includes records that originated by the Third Party and certain terms and conditions and specifications that the Third Party provided agreement which were recorded on the final documents. The information contained in the correspondence from the Third Party clearly was directly supplied to the Government by the Third Party.

...The Government submits that the Third Party's response and the payment terms are similar to the information that was found in *Canadian Bank Note, supra* to be supplied by the Third Party.

...

The Ministry submits that **certain portions of the Responsive Records, includes an explicit Confidentiality provision that was agreed to by the parties.** The Lease document has a mutual confidentiality clause between the landlord and tenant. It specifically states rental costs, lease inducements and improvements are confidential... the Government further submits that the nature of the Responsive Records, being formulated from the commercial information of the Third Party, incorporating their

confidential response to the Competition and the Government would all be reasonably perceived by another person to be confidential in nature. There is no public or published source of the redacted information contained in the Responsive Records.

[Emphasis added]

[22] In my office's *Guide to FOIP, Chapter 4* (updated February 4, 2020) (Guide to FOIP), at page 191, provides the following three part-test can be applied:

1. Is the information financial, commercial, scientific, technical or labour relations information of a third party?
2. Was the information supplied by the third party to a government institution?
3. Was the information supplied in confidence implicitly or explicitly?

1. Is the information financial, commercial, scientific, technical or labour relations information of a third party?

[23] *Financial information* is information regarding monetary resources, such as financial capabilities, assets and liabilities, past or present. Common examples are financial forecasts, investment strategies, budgets, and profit and loss statements. The financial information must be specific to a third party.

[24] *Commercial information* is information relating to the buying, selling or exchange of merchandise or services. This can include third party associations, past history, references and insurance policies and pricing structures, market research, business plans, and customer records. Types of information included in the definition of commercial information can include:

- offers of products and services a third-party business proposes to supply or perform;
- a third-party business' experiences in commercial activities where this information has commercial value;
- terms and conditions for providing services and products by a third party;

- lists of customers, suppliers or sub-contractors compiled by a third-party business for its use in its commercial activities or enterprises - such lists may take time and effort to compile, if not skill;
 - methods a third-party business proposes to use to supply goods and services; and
 - number of hours a third-party business proposes to take to complete contracted work or tasks.
- [25] In Review Report 229-2015, the Commissioner found that unit prices in a contract between Saskatchewan Government Insurance and a third party qualified as commercial information of the third party. This was later upheld by Justice Zarzeczny in *Canadian Bank Note Limited v. Saskatchewan Government Insurance*, 2016 SKQB 362.
- [26] *Technical information* is information relating to a particular subject, craft or technique. Examples are system design specifications and the plans for an engineering project. It is information belonging to an organized field of knowledge which would fall under the general categories of applied sciences or mechanical arts. Examples of these fields would include architecture, engineering or electronics. It will usually involve information prepared by a professional in the field and describe the construction, operation or maintenance of a structure, process, equipment or thing. Finally, technical information must be given a meaning separate from scientific information.
- [27] *Labour relations information* is information that relates to the management of personnel by a person or organization, whether or not the personnel are organized into bargaining units. It includes relationships within and between workers, working groups and their organizations as well as managers, employers and their organizations. Labour relations information also includes collective relations between a public body and its employees. Common examples of labour relations information are hourly wage rates, personnel contracts and information on negotiations regarding collective agreements.
- [28] Central Services applied subsection 19(1)(b) of FOIP to the majority of the withheld portions of the records, as detailed in Appendix A. Central Services has applied this

exemption to portions of the lease, email correspondence and a document initiating monthly payments to 3346286 Manitoba Ltd. for the lease.

- [29] Some of the information in the records appears to contain information that fits the definitions of the first part of this test. For example, page A5 includes the cost per square foot which is a unit price and would qualify as commercial information; page B31 and B51 to B53 are quotes from third party organizations for products or services supplied to Central Services by 3346286 Manitoba Ltd. that would also qualify as commercial information; and pages B123 and D168 to D181 are architectural drawings and plans that would qualify as technical information. As such, the first part of the test is met.

2. Was the information supplied by the third party to a government institution?

3. Was the information supplied in confidence implicitly or explicitly?

- [30] *Supplied* means provided or furnished. Records can still be “supplied” even when they originate with the government institution (i.e. the records still may contain or repeat information extracted from documents supplied by the third party). However, the third party objecting to disclosure will have to prove that the information originated with it and that it is confidential. The following are examples of information not supplied by a third party:

- information that reflects the viewpoints, opinions or comments of government officials;
- reports resulting from factual observations made by government inspectors; and
- the terms of a lease negotiated between a third party and a government institution.

- [31] *In confidence* usually describes a situation of mutual trust in which private matters are relayed or reported. Information obtained in confidence means that the provider of the information has stipulated how the information can be disseminated. In order for confidence to be found, there must be an implicit or explicit agreement or understanding of confidentiality on the part of both the government institution and the third party that provided the information.

[32] In Review Report 086-2019, my office considered the application of exemptions to a letter of intent and amended letter of intent for the lease of this same property which provided:

[24] My office reviewed the Third Party's proposal to assist in determining what information in the letter of intent and amended letter of intent had been supplied to Central Services by the Third Party. Based on my review, the square footage being rented differed in all of the documents so that the dollar figure did not match. While the dollar amounts per square foot were not specifically referenced in the Proposal document, the rates used for the Office Space Base Rent (referred to as Main Floor Office Space Base Rent in the amended letter of intent) and Property Tax Rent could be calculated using the figures provided in the proposal document. As well, one of the floor plans in the letter of intent also appeared in the proposal document. Beyond that, it was not apparent on a review of the face of the record that any of the other information in the letter of intent or amended letter of intent had been supplied in the Third Party's proposal document.

[25] Therefore, based on the information provided to my office, the only information that I can conclude was supplied by the Third Party to Central Services is the cost per square foot for the Office Space Base Rent/Main Floor Office Space Base Rent and Property Tax Rent.

...

[32] As I have found that all three parts of the test have been met, I find that Central Services appropriately applied subsection 19(1)(b) of FOIP to the cost per square foot for the Office Space Base Rent/Main Floor Office Space Base Rent and Property Tax Rent. While I have not found that the total dollar amount for these two figures was supplied by the Third Party, the release of the total dollar amount, along with the total square footage Central Services was considering leasing at that time would allow for the calculation of this information. As such, subsection 19(1)(b) of FOIP would apply.

[33] In Review Report 086-2019, I found that subsection 19(1)(b) of FOIP was applied appropriately to the Office Space Base Rent/Main Floor Space Base Rent for this same property, as it met the three-part test. The same cost per square foot is used in the final lease with the title of Base Rent (1st Floor) at page A5. The unit cost, or cost per square foot is also mentioned in some email correspondence, including pages B116 to– B117 and B124.

[34] Therefore, the same finding would apply in this case for the cost per square foot, as well as the total cost as it would be possible to calculate the cost per square foot if the total square foot of space leased on the 1st floor and the total cost were released.

- [35] Pages I196 to I246 is a proposal submitted by Hipperson Construction and Kreate Architecture and Design Ltd. to Central Services in response to Central Services' *Request for Proposal for Professional Consulting/Construction Management Services*. Based on my review of this document, there does not appear to be a clear explicit clause of confidentiality for proposals submitted. However, it does request that third parties submit their proposals in a sealed envelope and that there would not be a public opening of the proposals.
- [36] Additionally, in Review Report 109-2015, my office found that the nature of the information submitted by third parties in response to a request for proposal (RFP) process would be regarded as confidential by a reasonable person. In Review Report 031-2015, the Commissioner found that the entire proposal packages of two third parties constituted commercial information because the proposals related to the buying or selling of goods and services. In this case, the third party proposal at pages I196 to I246 is for the purpose of selling a service. Central Services has released some portions of this record. I find that Central Services has appropriately applied subsection 19(1)(b) of FOIP to some portions of the withheld pages of the record. See Appendix A for details.
- [37] Beyond that, I have not been provided anything to convince me that the other information was supplied by a third party in confidence, and not negotiated between the parties for the purposes of this lease. Some of the records appear to be emails that contain information that has been supplied by the third party to Central Services, however, there does not appear to be anything in the emails that clearly indicates that the information being discussed is being supplied implicitly or explicitly in confidence. There are confidentiality clauses at the bottom of emails. However, my office has taken the position that the typical bottom of e-mail "confidentiality" note is not sufficient to establish that information was supplied in confidence. Such confidentiality notes are standard in most emails.
- [38] Further, some portions of the lease contained part of Central Services' public RFP competition document, such as pages A79 to A82. Clearly, this information would not qualify as being supplied in confidence by the third party.

[39] I find that Central Services has appropriately applied subsection 19(1)(b) of FOIP to some portions of the record, but not others. See Appendix A for details.

4. Does subsection 19(1)(c) of FOIP apply to the record?

[40] Subsection 19(1)(c) of FOIP provides:

19(1) Subject to Part V and this section, a head shall refuse to give access to a record that contains:

...

(c) information, the disclosure of which could reasonably be expected to:

(i) result in financial loss or gain to;

(ii) prejudice the competitive position of; or

(iii) interfere with the contractual or other negotiations of;

a third party;

[41] Central Services' submission provides:

This provision requires a review of objective grounds for finding that the disclosure of information could result in harm to the third party. The expectation of harm is sufficient if established on reasonable grounds and the OIPC Guide requests that details and support be provided to claim the exemption applies to redacted information. Some factors to be considered are; whether the Third Party understand disclosure would be prejudicial to their competitive position; how disclosure would impact the Third Party, is the information otherwise available.

It must be acknowledged that the commercial real estate market in Saskatchewan is a competitive business. In addition, in a similar manner, the construction and consulting market in the province is similarly competitive. The Third Parties involved in the present matter have provided representations to the Ministry outlining their concerns with the disclosure of information about the finalized arrangements regarding the premises to the public, and inevitably their potential competitors. The Third Party, Hipperson, in relation to the notice provided about the review, submitted that their information contained in the Hipperson Contract documents with respect to reference letters and past performance and the information regarding costing analysis was confidential.

The OIPC Guide provides for s. 19(1)(c)(iii) that information to be exempt could include negotiating positions, positions, instructions, pricing criteria and points used in negotiations. These examples are the type of information that has been redacted from the responsive records, including correspondence - which shows what bargaining positions and options were discussed before reaching finalization and concession by either the Ministry or Third Party in developing the terms, costs structure and rates for the premises.

- [42] My office's Guide to FOIP provides the following tests for the application of subsections 19(1)(c)(i), 19(1)(c)(ii) and 19(1)(c)(iii) of FOIP at page 204, pages 208 to 209 and pages 213 to 214, respectively:

Test for the application of subsection 19(1)(c)(i) of FOIP

1. What is the financial loss or gain being claimed?
2. Could release of the record reasonably be expected to result in financial loss or gain to a third party?

Test for the application of subsection 19(1)(c)(ii) of FOIP

1. What is the prejudice to a third party's competitive position that is being claimed?
2. Could release of the record reasonably be expected to result in the prejudice?

Test for the application of subsection 19(1)(c)(iii) of FOIP

1. Are there contractual or other negotiations occurring involving a third party?
2. Could release of the record reasonably be expected to interfere with the contractual or other negotiations of a third party?

- [43] Central Services applied subsections 19(1)(c)(ii) and 19(1)(c)(iii) of FOIP to the majority of the withheld portions of the record. Central Services relied on subsection 19(1)(c)(i) of FOIP to the redacted portion of page B124. I found earlier in this Report that subsection 19(1)(b) of FOIP applied to the dollar figure for the cost per square foot. I am unclear how the release of the remaining portions of this redacted paragraph in this email would result in a financial loss or gain for 3346286 Manitoba Ltd. I am not persuaded that subsection 19(1)(c)(i) of FOIP applies.

- [44] For the application of subsection 19(1)(c)(ii) of FOIP, Central Services' submission has outlined concerns about the harm this could cause to the third parties competitive position. However, I have not been provided with sufficient details to support the assertion that it could reasonably be expected to have this result.
- [45] For the application of subsection 19(1)(c)(iii) of FOIP, once a contract is executed, negotiation is concluded. The exemption would generally not apply unless, for instance, the same strategy will be used again and it has not been publicly disclosed. The final lease has been executed and negotiations between Central Services and the third parties related to this property have ceased. Nor have I been provided any details to support any foreseeable prospective or future negotiations.
- [46] I am not persuaded that subsection 19(1)(c) of FOIP would apply to these records. As such, I find that Central Services has not demonstrated that subsection 19(1)(c) of FOIP applies to the responsive records. See Appendix A for details.

5. Does subsection 19(1)(a) of FOIP apply to the record?

- [47] Subsection 19(1)(a) of FOIP provides:

19(1) Subject to Part V and this section, a head shall refuse to give access to a record that contains:

(a) trade secrets of a third party;

- [48] Central Services' submission provides:

With respect to the above factors for Trade Secret Information of the Third Party, the Responsive Record, that forms the lease and Third Party correspondence, includes the specific arrangements that the Landlord has requested be maintained as confidential with respect to the full negotiated terms for occupation, payment rates and formulas to be paid for the occupation of the premises. The package of information includes a complex set of calculations and terms that include rates for certain locations within the premises, the negotiated costs for occupation and inducements or concessions by the landlord for this specific premise and their own standards for leasing. The Ministry and the Third party are both concerned that the disclosure of the details of the payment structure, occupation conditions and inducements, if known to the direct competitors

of the Third Party, would provide an unfair advantage in any renewal for these premises, or alternative options for future premises. The Third Party to the construction management contract has specifically identified their costing formula as a proprietary arrangement that they request be kept confidential. It was provided as a response document to the competition and the competition documents explicitly state the response documents will be kept in confidence. Both the Third parties have relied on the confidentiality provisions in the Ministry's documents when agreeing to provide their information and have it incorporated into the responsive records.

[49] A *trade secret* is defined as information, including a plan or process, tool, mechanism or compound, which possesses each of the four following characteristics:

- i) the information must be secret in an absolute or relative sense (is known only by one or a relatively small number of people);
- ii) the possessor of the information must demonstrate he/she has acted with the intention to treat the information as secret;
- iii) the information must be capable of industrial or commercial application; and
- iv) the possessor must have an interest (e.g. an economic interest) worthy of legal protection.

[50] The information must meet all of the above criteria to be considered a trade secret.

[51] Central Services has applied subsection 19(1)(a) of FOIP to a variety of information in the responsive records. Some examples include: portions of the lease, including pages A79 to A82 that Central Services had included in their public RFP competition document; emails, including page B1 that references the attachment to the email which is identified in the subject line; as well as photos of existing signage and proposed signage options, such as pages B39 to B41.

[52] Based on Central Services' submission and on the face of the records, I am not persuaded that this information would qualify as a trade secret.

[53] As such, I find that Central Services has not demonstrated that subsection 19(1)(a) of FOIP applies to the records. See Appendix A for details.

6. Do subsections 17(1)(a) or 17(1)(b)(i) of FOIP apply to the record?

[54] Subsections 17(1)(a) and 17(1)(b)(i) of FOIP provide:

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;

(b) consultations or deliberations involving:

(i) officers or employees of a government institution;

[55] Central Services' submission provided:

The general correspondence among government officials contain various pockets of "advice, proposals, recommendations, analyses and policy options" which have been redacted. The pattern of the correspondence demonstrates that both information and advice or recommendations were being sought throughout the threads of conversations. That information and advice was commented on, corrected, evaluated and responses were provided by other officials. The Ministry is claiming this exemption to support their continuing ability to freely discuss and provide opinions and options on decisions that are made among the group of officials and ultimately the course of action that is accepted as the decision of the Ministry.

[56] My office's Guide to FOIP provides the following tests for the application of subsections 17(1)(a) and 17(1)(b)(i) of FOIP at pages 120 to 122 and pages 127 to 128, respectively:

Test for the application of subsection 17(1)(a) of FOIP

1. Does the information qualify as advice, proposals, recommendations, analyses or policy options? and
2. Was the advice, proposals, recommendations, analyses and/or policy options developed by or for a government institution or a member of the Executive Council?

Test for the application of subsection 17(1)(b)(i) of FOIP

1. Does the record contain consultations or deliberations? and

2. Do the consultations or deliberations involve officers or employees of a government institution, a member of the Executive Council or staff of a member of the Executive Council?

[57] The first step would be to consider if any of the information redacted by Central Services fits the definition of information from either provision. However, it is important to note that neither of these provisions are meant to protect the bare recitation of facts, without anything further. The provision should be reserved for the opinion, policy or normative elements of advice, and should not be extended to the facts on which it is based. The exception is where the advice and facts may be so intertwined as to preclude release.

[58] *Factual material* means a cohesive body of facts, which are distinct from advice, proposals, recommendations, analyses and/or policy options. It does not refer to isolated statements of fact, or to the analyses of the factual material. Factual material refers specifically to information that cannot be withheld under subsection 17(1)(a) and which must be separated from advice, proposals, recommendations, analyses and/or policy options if those are being withheld. Where factual information is intertwined with advice or recommendations in a manner whereby no reasonable separation can be made, then the information is not factual material and can be withheld. The exemption does not generally apply to records or parts of records that in themselves reveal only the following:

- that advice was sought or given;
- that particular persons were involved in the seeking or giving of advice; or
- that advice was sought or given on a particular topic or at a particular time.

[59] Central Services applied subsections 17(1)(a) and 17(1)(b)(i) of FOIP to the redacted portions of Record D. However, it only applied subsection 17(1)(a) of FOIP to pages D168 to D181 which are architectural plans and drawings.

[60] Based on the emails that the architectural plans and drawings were attached to, the architectural plans and drawings were developed for 3346286 Manitoba Ltd. property that Central Services had negotiated a lease with for space. The emails forwarding the

architectural plans and drawings was then approved by Central Services in order for construction to proceed. This information would qualify as a “proposal” for the purposes of subsection 17(1)(a) of FOIP, which is defined as something offered for consideration or acceptance. As this proposal was developed for Central Services’ approval to proceed with construction, I find that subsection 17(1)(a) of FOIP would apply to pages D168 to D181. See Appendix A for details.

[61] Pages D12 and D20 are office space floor plan drawings being considered by Central Services and Highways for the utilization of this space. However, unlike the architectural plans and drawings at pages D168 to D181, these drawing appear to be discussed and described in detail in the emails they are attached to. It is unclear how the drawing itself would reveal any information described in these exemptions that is not already revealed in the accompanying emails. I am not persuaded that subsections 17(1)(a) or 17(1)(b)(i) of FOIP apply to pages D12 and D20. See Appendix A for details.

[62] Based on the face of the records, much of the redacted information appears to be factual in nature related to the leased property. For example, page D33, which is an email between Highways and Central Services, the first redacted paragraph appears to be factual information about the amount of space leased. However, the second paragraph appears to be seeking an opinion and feedback about the space requirements. As such, I find that subsection 17(1)(b)(i) of FOIP would apply to the second paragraph of page D33. See Appendix A for details.

[63] I find that Central Services has appropriately applied subsections 17(1)(a) and 17(1)(b)(i) of FOIP to some portions of the records, but not to others. See Appendix A for details.

7. Does subsection 29(1) of FOIP apply to the record?

[64] Central Services applied subsection 29(1) of FOIP to the withheld portions of Package I of the records.

[65] Central Services’ submission provided as follows:

The Ministry collaborated with the Ministry of Highways and Infrastructure, the Highway Traffic Control Board, and third parties, Hipperson Construction Company Ltd., Kreate Architecture and Design, Ltd., and Manitoba Ltd. of its intention to release portions of the responsive records.

With respect to the Hipperson contract document; Hipperson Construction objected to the disclosure of the names, references regarding their personnel and other identifiable information about their personnel, including personnel specific responsibilities, education, qualifications, personal experience, reporting hierarchy, business addresses and the identity, name and addresses of persons providing reference opinions regarding the third party contractor.

[66] Subsection 29(1) of FOIP provides:

29(1) No government institution shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of the individual to whom the information relates except in accordance with this section or section 30.

[67] Subsection 24(1)(b) of FOIP provides:

24(1) Subject to subsection (1.1) and (2), “**personal information**” means personal information about an identifiable individual that is recorded in any form, and includes:

...

(b) information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;

[68] In Review Report 172-2019, at paragraph [18], it provides:

[18] For information to be personal information pursuant to subsection 24(1)(b) of FOIP, it needs to reveal the education history of an identifiable individual. In Investigation Report LA-2013-003 at paragraph [25], the former Commissioner adopted the definition of “education history” from Alberta’s *FOIP Guidelines and Practices* (2009), which I agree with. The definition provides:

Educational history refers to any information regarding an individual’s schooling and formal training, including names of schools, colleges or universities attended, courses taken and results achieved.

[69] *Work product* is information generated by or otherwise associated with an individual in the normal course of performing their professional or employment responsibilities, whether in a public or private setting. Work product is also not considered personal information.

[70] In Review Report 301-2019, my office discussed business card information as follows:

[13] In Review Report 186-2019, my office found that business card information would not be considered personal information, as follows:

[25] ...the Ministry has also applied subsection 29(1) of FOIP to cellular telephone numbers of a third party business employee. In its submission, the Ministry indicated that the cellular telephone number was withheld because if released it would disclose personal information of an identifiable individual as the number is not publicly available.

[26] Business card information is the type of information found on a business card (name, job title, work address, work phone numbers and work email address). This type of information is generally not personal in nature and therefore would not be considered personal information. Further, in Review Report 149-2019, 191-209 [sic], I noted that business card information does not qualify as personal information when found with work product. Work product is information generated by or otherwise associated with an individual in the normal course of performing his or her professional or employment responsibilities, whether in a public or private setting. Work product is also not considered personal information.

...

[28] In Review Report F-2010-001, Review Report F-2012-006 and Review Report LA-2013-002, my office noted that section 4.01 the Personal Information Protection and Electronic Documents Act (PIPEDA), which applies to every organization that collects, uses or discloses personal information in the course of “commercial activities”, carves out business contact information from the type of personal information that requires protection.

[29] Subsection 2.1 of PIPEDA defines “business contact information” as, “information that is used for the purpose of communicating or facilitating communication with an individual in relation to their employment, business or profession such as the individual’s name, position name or title, work address, work telephone number, work fax number or work electronic address.” This supports the conclusion that business card information is not meant to be personal information for the purposes of subsection 24(1) of FOIP when it appears in work product.

[30] The cellular telephone number, therefore, constitutes business card information and does not qualify as personal information in this instance. I recommend that the Ministry release it to the Applicant.

[71] In reviewing the records, pages I213, I217, I218 and I221 to I222 appear to contain some information that would qualify as education and employment history of an identifiable individual other than the Applicant. Therefore, I find that subsection 29(1) of FOIP would apply. However, other portions, including portions of pages I213 and I217 to I218 which includes the name of the individual and what their responsibilities would be on the project would qualify as work product. Additionally, the names of the employees on the organizational and project charts that have been redacted from pages I219 to I220 would be considered business card information. I find that subsection 29(1) of FOIP would not apply to this information.

[72] I find that Central Services has appropriately applied subsection 29(1) of FOIP to some portions of the records, but not to others. See Appendix A for details.

8. Does subsection 18(1)(d) of FOIP apply to the record?

[73] Subsection 18(1)(d) of FOIP provides:

18(1) A head may refuse to give access to a record that could reasonably be expected to disclose:

...

(d) information, the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of the Government of Saskatchewan or a government institution;

[74] In my office's Guide to FOIP at pages 168 and 169, the following two-part test for the consideration of this exemption provides:

1. Are there contractual or other negotiations occurring involving the Government of Saskatchewan or a government institution?

2. Could release of the record reasonably be expected to interfere with the contractual or other negotiations?

[75] Central Services' submission provided:

The Government, through the Ministry of Central Services, acts as both a landlord and tenant across the province of Saskatchewan. The Government is a large entity in the commercial real estate market in both small centres and the major cities in the province. There are approximately 690 real property sites that the Government operates either as landlord or tenant. In addition, the Government has a presence in approximately 154 communities throughout the province. The Government, as a major real estate entity, has some flexibility in being able to negotiate variable terms and conditions on leases that take into account market rents and values. The disclosure of the final negotiated financial arrangements put in place with this particular Third Party, would influence the continued operations of Government as it inevitably negotiates and enters into new leases, renewal arrangements and negotiations with other third parties as both a landlord and tenant in the real estate market in Saskatchewan.

The IPC Guide provides the explanation that this test includes obstructing or making more difficult the negotiations of a contract or other agreement for the Government. The Government submits that the case law, founded in *Merck Frosst v. Canada*, is clear that the principle to be applied will establish a reasonable expectation of harm that may result from disclosure of the information. This is the same test and explanation provided in the IPC Guide regarding Exemptions for s.18(1)(d).

The Government submits that their capacity to freely negotiate options and favourable terms in both the current negotiations and relationship with the Third Party with respect to the Premises, in addition to future negotiations on either the same or other premises, would be impeded if the current terms and conditions, in particular the negotiations over pricing and rent, were to become disclosed. The financial negotiations are key to Government obtaining fair market value as a landlord and maximizing the Government's ability to provide revenue and accountability for public funds. The disclosure of the detailed terms and conditions of the negotiated use of a Government premise is likely to mean that the Government's position on a renewal and on every other real property negotiation occurring with the Government, would be affected. The Third Party has indicated that they object to the release of the redacted information in the responsive records. The disclosure of the records in face of the objection would place the Government in a position where the relationship between the Government and Third Party to continue to negotiate in good faith will be eroded.

- [76] Once a contract is executed, negotiation is concluded. The exemption would generally not apply unless, for instance, the same strategy will be used again and it has not been publicly disclosed. There must be a reasonable expectation that disclosure could interfere with contractual or other negotiations.
- [77] In Review Report 086-2019, I considered the application of subsection 18(1)(d) of FOIP to a letter of intent and amended letter of intent for the lease of this same property. In that

report, Central Services confirmed that negotiations were complete. As the negotiations were complete, I found that subsection 18(1)(d) of FOIP did not apply.

[78] Some of the responsive records at issue in this report relate to those same negotiations which have ceased. Therefore, based on Central Services' submission and on the face of the records, I am not persuaded that subsection 18(1)(d) of FOIP would apply to these records. See Appendix A for details.

9. Does subsection 18(1)(e) of FOIP apply to the record?

[79] Subsection 18(1)(e) of FOIP provides:

18(1) A head may refused to give access to a record that could reasonably be expected to disclose:

...

(e) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the Government of Saskatchewan or a government institution, or considerations that relate to those negotiations;

[80] Central Services' submission provides:

The Responsive Records consist of the final negotiated Agreement for Lease, including terms and conditions for the use of the premise by the Government and the calculation of the financial arrangements with the Third Party. The Government submits that the Responsive Records contain positions, plans, criteria, or considerations of the Government.

[81] Subsection 18(1)(e) of FOIP is a discretionary, class-based exemption. It permits refusal of access in situations where release of a record could reasonably be expected to disclose positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of a government institution. It also covers considerations related to the negotiations.

[82] Examples of the type of information that could be covered by the exemption are the various positions developed by a government institution's negotiations in relation to labour, financial and commercial contracts.

[83] In my office's Guide to FOIP at page 173, it provides the following two-part test for the application of this exemption:

1. Does the record contain positions, plans, procedures, criteria, instructions or considerations that relate to the negotiations?
2. Were the positions, plans, procedures, criteria, instructions or considerations developed for the purpose of contractual or other negotiations by or on behalf of the Government of Saskatchewan or a government institution?

[84] In Review Report 244-2018, my office considered subsection 18(1)(e) of FOIP and the following is relevant in the case before me:

[78] Pages 2 to 7 is a guidance letter sent from the pCPA to three third party manufacturers. In other words, the letter has been shared with third parties.

[79] Interim Order PO-3649-I issued by the Information and Privacy Commissioner of Ontario (ON IPC) discusses the exemption subsection 18(1)(e) in the Ontario's *Freedom of Information and Protection of Privacy Act* equivalent to subsection 18(1)(e) of FOIP. The ON IPC Order states:

Generally speaking, section 18 is designed to protect certain economic interests of institutions covered by the Act. Sections 18(c), (d) and (g) all take into consideration the consequences which would result to an institution if a record was released. In contrast, sections 18(a) and (e) are concerned with the type of the record, rather than the consequences of its disclosure.

[80] Subsection 18(1)(e) of Saskatchewan's FOIP is also concerned with the type of record rather than the consequence of its disclosure. The ON IPC Order also discusses the reasoning behind the creation of the exemption. The Order concluded the following:

...the first two parts of the test in section 18(1)(e) are met when the record discloses the ministry's bargaining strategy or the instructions given to the officials who carried out the negotiations. In my view, these strategies and pre-determined courses of action would be discussed internally at the ministry, and not shared with third parties.

[81] The Order concluded that email communications, correspondence and notes of meetings between the public body in that case and a third party which set out each of the parties' positions as well as draft and final agreements did not qualify as positions, plans, procedures, criteria, instructions or considerations in the context of that exemption.

[82] I adopt this reasoning for the purposes of subsection 18(1)(e) of FOIP. Therefore, because pages 2 to 7 of the record have been shared with parties involved in the negotiations, it does not qualify as positions, plans, procedures, criteria, instructions or considerations for the purpose of this exemption.

[85] I adopt this analysis for the purposes of this review. Most of the responsive records, such as the lease in package A and the email correspondence in packages B, D and I are correspondence that involve third parties. As such, the information does not qualify as positions, plans, procedures, criteria, instructions, or considerations for the purpose of this exemption.

[86] Based on my review of the records that Central Services has applied subsection 18(1)(d) of FOIP, I am not persuaded that the contents reveal positions, plans, procedures, criteria, instructions or considerations. An example of this is pages D182 to D183 which are emails between Highways and Central Services and the contents appear to be regarding the right of first refusal, as identified in the subject line that was released. The content of this email does not appear to contain any information that would fit the definitions of positions, plans, procedures, criteria, instructions or considerations. It appears to be more factual information about how the threshold for when the right of first refusal is generally met.

[87] I find that Central Services has not demonstrated that subsection 18(1)(e) of FOIP applies to the redacted portions of the records. See Appendix A for details.

10. Does subsection 18(1)(f) of FOIP apply to the record?

[88] Subsection 18(1)(f) of FOIP provides:

18(1) A head may refused to give access to a record that could reasonably be expected to disclose:

...

(f) information, the disclosure of which could reasonably be expected to prejudice the economic interest of the Government of Saskatchewan or a government institution;

[89] Central Services' submission provides:

Under section 18(1)(f) of FOIPP [sic], the economic interests of Government would clearly include arrangements and management of real property assets, which is one of the main functions of the services that the Central Services Ministry provides for Government and Government entities. The Ministry functions as the central agency to Government in managing real property assets and arrangements for accommodations for Government. It is submitted that in the present context, there is no real question that the Government as a landlord and owner of the premises engages the economic interests of Government.

...

The prejudice that being required to disclose positions, negotiation strategy and resultant negotiated settlement of financial arrangement for leases in the competitive commercial real estate market poses an increased impediment on the Government's bargaining position...

Government is a major landlord/tenant in the commercial real estate market place. As such, the details and information about the activities of Government in this marketplace could affect the market. Having disclosed information about the Government's strategies and plans could have a significant impact on the cost of space to and could impact the negotiations of private sector landlords and tenants. The conclusions would be based on minimal or partial information and may result in indications that the Government had determined its market rents are higher or lower than would be statistically accurate.

The Government in entering into lease arrangements, attempts to take all of the items affecting market rents into account. It has been shown during arbitration proceedings that individuals will not always consider all of these items and may, in fact, only look at the face rate of comparable space in arriving at a determination of the market rate. Using incomplete information can be detrimental to both the marketplace and competition. This would in turn affect Government's ability to obtain reasonable prices for the services it acquired on behalf of Government.

There has been some expectation expressed by private sector landlords and tenants that the proposals provided to the Government and the final lease terms and conditions of contracts with Government will be treated with confidentiality. The release of information on rentals and other financial information provided in the course of negotiations or negotiated with Government could impact future negotiations with both the Government's own landlords and the Government's tenants.

The Government has taken a general position that where circumstances dictate it is appropriate, the Government will follow the marketplace rather than lead it and in communities where the Government is a major tenant providing lease information could have a significant impact on driving market rates.

[90] Subsection 18(1)(f) of FOIP is a discretionary, harm-based exemption. It permits refusal of access in situations where release could reasonably be expected to prejudice the economic interest of the Government of Saskatchewan or a government institution.

[91] In my office's Guide to FOIP, at page 176, it provides the following test that can be applied to determine if this exemption applies to information in a record:

Could disclosure reasonably be expected to prejudice the economic interests of the Government of Saskatchewan or a government institution?

"Could reasonably be expected to" means there must be a reasonable expectation that disclosure could prejudice the economic interests of the government institution or the Government of Saskatchewan...

The government institution does not have to prove that a harm is probable, but needs to show that there is a "reasonable expectation of harm" if any of the information were to be released. In *British Columbia (Minister of Citizens' Service) v. British Columbia (Information and Privacy Commissioner)*, (2012), Bracken J. confirmed it is the release of the information itself that must give rise to a reasonable expectation of harm.

Government institutions should not assume that the harm is self-evident. The harm must be described in a precise and specific way in order to support the application of the provision.

The expectation of harm must be reasonable, but it need not be a certainty. The evidence of harm must:

- show how the disclosure of the information would cause harm;
- indicate the extent of harm that would result; and
- provide facts to support the assertions made.

A reasonable expectation of prejudice to economic interest is not established by simply asserting that disclosure of records would result in financial loss or that it would interfere in future business dealings. Nor is it established by the mere prospect of heightened competition flowing from disclosure...

While direct evidence of specific future harm is not required, there must be an explanation based on the evidence to establish that the harm feared is more than

speculative or “merely possible”. The evidence must be more than conjecture: *Canada (Information Commissioner) v Toronto Port Authority*, 2016 FC 683.

Prejudice in this context refers to detriment to economic interests.

Economic interests refers to both the broad interests of a government institution and, for the government as a whole, in managing the production, distribution and consumption of goods and services. This also covers financial matters such as the management of assets and liabilities by a government institution and the government institution’s ability to protect its own or the government’s interests in financial transactions

[92] In Review Report 086-2019, my office considered similar arguments for the application of subsection 18(1)(f) of FOIP to the letter of intent and amended letter of intent for the lease of this property. In that report, I also considered an ON IPC Order which provided as follows:

[53] ... at the time of writing this Report, the negotiations are complete and a lease has been finalized. In ON IPC Order PO-2289, it provides:

The ORC Submits:

...disclosure of the pricing information in the Lease can reasonably be expected to harm the economic interests or competitive position of the ORC or to harm the financial interests of the Government of Ontario.

...one of the main responsibilities of the ORC is the leasing of property from third parties where additional space is required for the Government of Ontario. The ORC is obliged to ensure a competitive process and cost-effective solutions in the leasing of property. It can be seen that it is in the financial interests of the ORC and the Government and in the public interest for the ORC to be able to keep pricing matters confidential to ensure their competitive position in the market and obtain the best pricing available. The lease containing the information at issue has already been executed, as opposed to being the subject of any ongoing negotiations. In addition, the age of the lease (which was executed in 1993) tends to refute any claims of prejudice to any future negotiations or renegotiations.

Based on the materials before me, I am not persuaded that disclosing the information at issue could reasonably be expected to prejudice the ORC’s economic interests or competitive position. The ORC has not provided the “detailed and convincing” evidence required to demonstrate that the harms it alleges are not merely speculative.

- [93] I am not persuaded by the arguments presented by Central Services that the harm described is anything more than speculative. As such, I find that Central Services has not appropriately applied subsection 18(1)(f) of FOIP to the responsive records. See Appendix A for details.

IV FINDINGS

- [94] I find that Central Services appropriately identified some portions of the records as non-responsive, as described in Appendix A.
- [95] I find that Central Services appropriately applied subsections 17(1)(a), 17(1)(b)(i), 19(1)(b) and 29(1) of FOIP to some portions of the records, as described in Appendix A, but not to others.
- [96] I find that Central Services has not appropriately applied subsections 18(1)(d), 18(1)(e), 18(1)(f), 19(1)(a), 19(1)(c)(i), 19(1)(c)(ii) and 19(1)(c)(iii) of FOIP to the redacted portions of the records, as described in Appendix A.

V RECOMMENDATIONS

- [97] I recommend Central Services continue to withhold severed portions of records, as described in Appendix A of this Report.
- [98] I recommend Central Services release severed portions of records, as described in Appendix A of this Report.

Dated at Regina, in the Province of Saskatchewan, this 5th day of November, 2020.

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

Appendix A

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
A	2		Lease: Date lease expires.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	3	1, 2	Lease: Titles of Appendix D and H – in the RFP document provided by Central Services.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	4		Lease: Total space leased	19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	5	1, 5	Lease: (redaction 1) Number of parking spots, (redaction 5) Total space leased for each floor leased	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	5	2, 3	Lease: (Redaction 2) Length of term of lease, (redaction 3) date of end of term lease	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	5	4, 6, 7	Lease: (Redaction 4) Total cost of lease annually and monthly, (redaction 6) cost per square foot for office space and total cost of base rent and operating rent, (redaction 7) cost of parking stalls per stall and total cost of parking stalls.	18(1)(d)	No	Withhold Base Rent (1 st Floor) unit and total cost and release remaining portions.
				18(1)(e)	No	
				18(1)(f)	No	
				19(1)(b)	Yes – to the unit cost/square foot and total cost for 3.1 Base Rent (1 st Floor)	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	6	1, 2	Lease: Clauses 5.1.1 and 5.1.2 under Section 5: Tax Payment and Adjustments	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	7	1		19(1)(a)	No	Release

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
			Lease: Clause 5.2 under Section 5: Tax Payment and Adjustments	19(1)(b) 19(1)(c)(ii) 19(1)(c)(iii)	No No No	
A	7 – 8	Page 7: redactions 2 – 7 (redaction 7 starts on page 7 and goes to page 8) All redactions on page 8	Lease: Clauses 5.3, 5.3.1, 5.3.2, 5.3.3, 5.4, 5.6 under Section 5: Tax Payment and Adjustments	19(1)(a) 19(1)(b) 19(1)(c)(ii) 19(1)(c)(iii)	No No No No	Release
A	9	1	Lease: Clause 6.1.2 under Section 6: Operating Cost Adjustments	19(1)(a) 19(1)(b) 19(1)(c)(ii) 19(1)(c)(iii)	No No No No	Release
A	9	2	Lease: Clause 6.1.3 under Section 6: Operating Cost Adjustments	18(1)(d) 18(1)(e) 18(1)(f) 19(1)(a) 19(1)(b) 19(1)(c)(ii) 19(1)(c)(iii)	No No No No No No No	Release
A	9	3, 4	Lease: Clauses 6.1.4 and 6.1.5 under Section 6: Operating Cost Adjustments	19(1)(a) 19(1)(b) 19(1)(c)(ii) 19(1)(c)(iii)	No No No No	Release
A	12 – 15	All redactions except last redaction on page 15	Lease: Clauses 8.2 to 8.18 under Section 8: The Landlord's Covenants	19(1)(a) 19(1)(b) 19(1)(c)(ii) 19(1)(c)(iii)	No No No No	Release
A	15 – 17	Last redaction on page 15 and all redactions on pages 16 and 17	Lease: Clauses 9.1 to 9.3.3 under Section 9: Default by Landlord	19(1)(a) 19(1)(b) 19(1)(c)(ii) 19(1)(c)(iii)	No No No No	Release
A	20			19(1)(a)	No	Release

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
			Lease: Terms under Section 13: Removal of Tenant's Chattels, Improvements and Fixtures	19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	21	1, 2	Lease: Terms under Section 15: Rent in Arrears and Section 16: Overholding	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	23 – 26	1, 2	Lease: Terms under Section 21: Assignment by Landlord; Clauses 22.1 and 22.2 under Section 22: Subordination and Attornment; Terms under Section 24: Option to Renew (Title of section redacted at page 25 but released on Table of Contents on Page 3); Terms under Section 25: Right of First Refusal (Title of section redacted at page 25 but released on Table of Contents on Page 3); Terms under Section 26: Non-Disturbance	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	72 – 73	Page 72: Redaction 1 and 2; Page 73: Redaction 1	Lease: Page 72: Redaction 1: Title of Appendix D, Redaction 2: Terms under Appendix D; Page 73: redacted line is the title of Appendix D	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	76 – 78		Lease: Page 76 and 77: Appendix F:	19(1)(a)	No	Release
				19(1)(b)	No	

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
			Floor Layout Plans; Page 78: Appendix G: Site Plan	19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
A	79 – 82		Lease: Appendix H (Title of Appendix and terms under Appendix H redacted)	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	1	1, 2, 3	Email: Subject line, name of attachment and the single line of the email.	19(1)(a)	No	Release
				19(1)(b)	No	
B	2, 5		Site Plan of property	19(1)(a)	No	Release
				19(1)(b)	No	
B	6, 8		Development and building permit communications between City of Regina and third party.	19(1)(a)	No	Release
				19(1)(b)	No	
B	10	1	Email between Central Services and Shindico regarding property management	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	10	2	Email between Central Services and Shindico regarding property management	19(1)(b)	No	Release
B	11		Letter between Central Services and Shindico two redacted regarding Lease Amendment	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	12, 13		Lease Amendment: Terms of Lease Amendment partially redacted	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	15	1, 2	Redacted portions of correspondence between Central Services and third	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
			party regarding the Compound Space			
B	16	1, 2	Letter from Central Services to third party regarding lease	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	19		Appears to be the same Site Plan B2 and B5.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	20, 21		Portions of email correspondence between City of Regina, Central Services and Shindico relating to tenancy at property	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	23		Appears to be the same Site Plan as B2, B5 and B19.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	24		Two sentences redacted in email between Central Services and Shindico regarding Compound Area	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	26		Appears to be the same Site Plan as B2, B5, B19 and B23.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	27		Email thread with same redacted portion as that found at B24	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	29		Portions of Email communication between Central Services and Shindico regarding compound space.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	30, 34		Emails between Central Services and Shindico regarding tenant signage: Page 30: portion of sentence redacted	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
			and Page 34: two single line bullet points redacted			
B	36		Email correspondence regarding Tenant Signage. Redacted portion regarding price and details that it appears Shindio obtained from another third party and presented to Central Services.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	39 – 41		Photos of existing signage on property and images of an option for new signage	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	45 – 48		Measurements and signage material details for signage options as well as photos of options, as well as photos of what is existing.	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	49		Main Floor Lobby Floor Plan.	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	50		Second Floor Lobby Floor Plan.	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	51 – 53		Quote for Signage. – quotation from a third party to Shindico for the tenant signage	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	54 – 57		Photos of signage options and existing photos at the property.	19(1)(a)		Release
				19(1)(b)		
				19(1)(c)(ii)		
				19(1)(c)(iii)		

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
B	58	1, 2, 3	Portions of emails redacted following inquiry of electrical and mechanical requirements.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	60		Letter from Alliance Energy to Hipperson Construction attached to email communication regarding electrical and mechanical requirements	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	70	1, 2	Email communications regarding lease. Body of two emails in email thread redacted.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	73		Land Titles Registry screen shot in email body.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	75	1, 2	Email from Central Services to Highways appears to be the same redacted information as B36.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	76 – 78		Appears to be the same as B39 – B41: Photos of existing signage on property and images of an option for new signage	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	82 - 85		Appears to be the same as B45 – B48: Measurements and signage material details for signage options as well as photos of options, as well as photos of what is existing.	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
B	86		Main floor lobby floor plan. Appears to be the same as B49.	19(1)(a)	No	
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	87		Second floor lobby floor plan. Appears to the same as B50.	19(1)(a)	No	
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	88 – 89		Quotation for Signage. Appears to be the same as first two pages of the quote found at B51 – B53	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	90 – 92		Portions of email thread between Shindico and Central Services outlining revisions to the lease agreement.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	93		Portion redacted on this page the same as B36 and B75. Except in this instance Central Services released the first sentence that was redacted in the other instances.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	95 – 97		Appears to the same A B39 – B41 and B76 – B 78: Photos of existing signage on property and images of an option for new signage	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	101 – 104		Appears to be the same as B45 – B48 and B82 – B85: Measurements and signage material details for signage options as well as	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
			photos of options, as well as photos of what is existing.			
B	105 – 106		Appears to the same as B49 – B50/B 86 – B87: Floor Plan options for main floor and second floor lobby.	19(1)(a)		Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	107 – 109		Appears to the same as B51 – B53: Signage Quotation	19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
				19(1)(c)(iii)	No	
B	110	1	Body of Email communication regarding unpaid rent – as referenced in subject line	19(1)(a)	No	Release
B	110	2	Handwritten notes on bottom of email related to this email	19(1)(c)(ii)	No	Release
				19(1)(c)(iii)	No	
B	116 – 117		Preliminary Rent Schedule (B117 has some handwritten notes as well) - references cost per square foot that 19(1)(b) of FOIP was found to apply to in Record A	19(1)(b)	Yes – to the unit cost/sq ft and total cost for Base Rent (1 st Floor)	Withhold Base Rent (1 st Floor) unit and total cost and release remaining portions.
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	118 – 119		One paragraph in an email string that starts on one page and continues to the next regarding janitorial room and mop sink access – as referenced in subject line.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	121 – 122		Appears to the same redacted information as the B118 – B119: regarding janitorial	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
				19(1)(c)(ii)	No	

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
			room and mop sink access – as referenced in subject line.	19(1)(c)(iii)	No	
B	123		Appendix F: Architectural Drawing	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	124		Email communication regarding lease of space – references cost per square foot that 19(1)(b) of FOIP was found to apply to in Record A	18(1)(d)	No	Withhold cost per square foot. Release remaining portions.
				18(1)(e)	No	
				18(1)(f)	No	
				19(1)(b)	Yes – applies to cost per square foot	
				19(1)(c)(i)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	131		List of vendors used at for property	19(1)(a)	No	Release
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
B	132 – 139		Email strings re outstanding items for the property – in many cases the email strings are repeats.	19(1)(b)	No	Release
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
C	1, 2		Payment instructions for commencing payment to Third Party	18(1)(d)	No	Release
				18(1)(e)	No	
				18(1)(f)	No	
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
D	12 and 20		Office Space Floor Plan Drawing.	17(1)(a)	No	Release
				17(1)(b)(i)	No	
D	26		One bullet point redacted in email between Central Services and Highways related to property	17(1)(a)	No	Release
				17(1)(b)(i)	No	
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
D	28	1, 2		17(1)(a)	No	Release
				17(1)(b)(i)	No	

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
			Email: Two bullet points in email related to property	19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
D	29	1, 2	Two sentences in email string redacted regarding cost of lease – Appears to be factual information	17(1)(a)	No	Release
				17(1)(b)(i)	No	
D	33	1, 2	Two paragraphs redacted from email string regarding office space requirements. First paragraph is factual information.	17(1)(a)	No	Release first paragraph. Withhold second paragraph.
				17(1)(b)(i)	Yes – second paragraph only	
D	40		One paragraph redacted from email regarding parking stalls. Factual information.	17(1)(a)	No	Release
				17(1)(b)(i)	No	
D	168 – 181		Stantec Architectural plans and drawings	17(1)(a)	Yes	Withhold
				18(1)(d)	No	
				18(1)(e)	No	
				19(1)(b)	No	
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	
D	182 – 183	Page 182 redactions 1 – 4; Page 183 Redaction 1	Email string starting on one page and continuing to the next regarding right of first refusal. Factual information about process.	17(1)(a)	No	Release
				17(1)(b)(i)	No	
				18(1)(d)	No	
				18(1)(e)	No	
D	191	1, 2	Body of emails for the two email strings regarding lease cost. Factual information	17(1)(a)	No	Release
				17(1)(b)(i)	No	
E	1 – 5	Withheld in part	Monthly Invoice for Highways detailing all properties and total payment due	Non-Responsive	Yes	If no other exemption s apply, consider releasing

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
F	1 – 4	Withheld in part	Monthly Invoice for Highways detailing all properties and total payment due	Non-Responsive	Yes	If no other exemption s apply, consider releasing
G	1 – 5	Withheld in part	Monthly Invoice for Highways detailing all properties and total payment due	Non-Responsive	Yes	If no other exemption s apply, consider releasing
H	1 – 5	Withheld in part	Monthly Invoice for Highways detailing all properties and total payment due	Non-Responsive	Yes	If no other exemption s apply, consider releasing
I	211		Names of third party employees, organization, position and role in the project and anticipated involvement in the project	19(1)(b)	No	Release
				29(1)	No	
I	213, 217 – 218		Resume information and anticipated project involvement	19(1)(b)	No	Withhold, with the exception of the employee name and the information under Project Responsibilities
				29(1)	Yes – to all resume information except the name of the employees and the portion under Project Responsibilities	
I	214 – 216		Third Party's Project Experience	19(1)(b)	Yes	Withhold
				29(1)	No	
I	219 – 220		Portions of organizational/ Project chart	29(1)	No	Release
I	221 – 222		Resume information of third party employees	19(1)(b)	No	Withhold
				29(1)	Yes	

Record	Page #	Redaction #	Description of Redacted Information	Exemptions applied	Does the Exemption Apply?	Release or Withhold
I	233 – 234 , 237 – 239		References and Reference Letters for third party organizations	19(1)(b)	Yes	Withhold
				29(1)	No	
I	243 – 246		Fee Proposal	19(1)(b)	Yes	Withhold
				19(1)(c)(ii)	No	
				19(1)(c)(iii)	No	