



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 060-2024

Crown Investments Corporation of Saskatchewan

October 16, 2024

Summary:

The Applicant submitted an access to information request to the Crown Investments Corporation of Saskatchewan (CIC). CIC withheld portions of the responsive records pursuant to subsections 13(1)(a), (b), (c), 16(1)(a), 17(1)(a), (c), (g), 18(1)(d), 19(1)(a), (b), (c) and 29(1) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Applicant asked the Commissioner to review CIC's decision. CIC advised it was no longer relying on subsections 17(1)(c), (g) and 19(1)(c) of FOIP. However, as a third party raised the application of subsection 19(1)(c)(i) of FOIP to part of the record, this review considers the application to that portion of the record. The A/Commissioner found that subsections 17(1)(a) and 29(1) of FOIP applied to some portions of the record, but not others. The A/Commissioner found also CIC did not properly apply subsections 13(1)(a), (b), (c), 16(1)(a), 18(1)(d), 19(1)(a) and (b) of FOIP to the record and that subsection 19(1)(c) of FOIP did not apply to the record. The A/Commissioner recommend that CIC continue to withhold the portions of the record where subsections 17(1)(a) and 29(1) of FOIP were found to apply and release the remaining portions of the record within 30 days of the issuance of this Report as outlined in the Report's Appendix.

I BACKGROUND

[1] On December 21, 2023, Crown Investments Corporation of Saskatchewan (CIC) received an access to information request from the Applicant for the following records for the time period January 1, 2023 to December 21, 2024:

From the Minister's recent trip to France:

-All receipts for all expenses, including accommodation, travel, meals, incidentals and miscellaneous for the Minister, staff and any other accompanying parties

-Minister's itinerary and meeting notes

-Itineraries and meeting notes from staff including in advance of travel

- [2] On January 22, 2024, CIC responded to the Applicant advising it would be extending its response time by 30 days, pursuant to subsection 12(1)(b) of *The Freedom of Information and Protection of Privacy Act* (FOIP).
- [3] On February 23, 2024, CIC released some portions of the records requested by the Applicant. CIC's section 7 decision letter stated it was withholding records in part pursuant to subsections 13(1)(a), (b), (c), 16(1)(a), 17(1)(a), (c), (g), 18(1)(d), 19(1)(a), (b), (c) and 29(1) of FOIP.
- [4] On March 5, 2024, the Applicant submitted a request for review to my office indicating that they had been refused access to portions of the requested records.
- [5] On April 10, 2024, my office followed up with CIC to determine if it would reconsider its application of the exemptions raised, and to clarify which subclause of 19(1)(c) of FOIP it was applying.
- [6] On April 19, 2024, CIC advised that it was no longer relying on subsection 19(1)(c) of FOIP and would only be relying on its application of subsection 19(1)(b) of FOIP to those portions of the record.
- [7] On April 22, 2024, my office notified CIC, the Applicant and eleven third parties that my office would be undertaking a review. On April 25, 2024, one of the third parties provided a letter to my office that it had received from CIC. The letter stated that CIC had identified their organization as a third party but later determined that third party exemptions did not apply to their information and so they would no longer be a third party in the review.

[8] On May 22, 2024, CIC provided my office with two copies of the record (one redacted, and the other unredacted) and the index of records. On June 21, 2024, CIC provided part 1 of its submission to my office and part 2 on July 5, 2024. Eleven third parties were invited to provide submissions. Of the ten remaining third parties notified, my office received responses from four on April 25, 2024, May 3, 2024, May 8, 2024, and May 21, 2024 respectively. The Applicant did not provide a submission.

[9] On July 5, 2024, CIC released additional portions of records that it had previously withheld, copying my office on the letter to the Applicant. On this same day, CIC provided my office with an updated index of records reflecting the additional portions of the record released to the Applicant.

II RECORDS AT ISSUE

[10] CIC identified 114 pages of responsive records and applied subsections 13(1)(a), (b), (c), 16(1)(a), 17(1)(a), (c), (g), 18(1)(d), 19(1)(a), (b) and 29(1) of FOIP to withhold 72 pages in full and 39 pages in part, for a total of 111 pages of records at issue.

[11] In its submission, CIC indicated it is no longer relying on subsections 17(1)(c) and (g) of FOIP, and so I will not consider them in my review. Also, CIC did not apply any severances to pages 15, 92 and 114. The Applicant provided my office with a copy of the records they had received from CIC and these pages were released to the Applicant in full. As such, these pages will not be at issue in this review.

[12] CIC released additional portions of the records to the Applicant on July 5, 2024, which includes severance numbers 12 to 14 on page 4, severance numbers 13, 17 and 18 on page 5, severance number 5 on page 10 and severance numbers 1 to 3 on page 12. As such, these portions of the record will also no longer be at issue, but there are still other exemptions for me to consider on these pages.

[13] The Appendix of this Report outlines details of the record and my recommendations.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[14] CIC qualifies as a “government institution” pursuant to subsection 2(1)(d)(ii) of FOIP and section 3 and PART I of the Appendix of *The Freedom of Information and Protection of Privacy Regulations*.

[15] CIC also identified ten third parties in this review. Each of these third parties qualify as a “third party” pursuant to subsection 2(1)(j) of FOIP.

[16] Therefore, I have jurisdiction to conduct this review.

2. Did CIC properly apply subsection 29(1) of FOIP?

[17] CIC applied subsection 29(1) of FOIP to the following pages with the following descriptions of each page grouping:

- Pages 1 to 14, 16 and 17 – travel, event and meeting itineraries;
- Page 90 – email thread; and
- Pages 93 to 95, 98 to 100, 103 to 105, and 108 to 110 – invoices.

[18] Subsection 29(1) of FOIP protects the privacy of individuals whose personal information is contained within records responsive to an access to information request made by someone else. It states:

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.

[19] Subsection 29(1) of FOIP only applies to personal information as defined by subsection 24(1) of FOIP. The list at subsection 24(1) of FOIP, however, is not exhaustive. To qualify

as personal information, the information must: 1) be about an identifiable individual; and 2) be personal in nature.

[20] Information is about an “identifiable individual” if the individual can be identified from the information (e.g., their name is provided) or if the information, when combined with information otherwise available, could reasonably allow the individual to be identified. To be “personal in nature” means the information provides something identifiable about the individual (*Guide to FOIP*, Chapter 6, “Protection of Privacy”, updated January 18, 2023 [*Guide to FOIP*, Ch. 6], pp. 32 to 33).

[21] I will separately review CIC’s reliance on subsection 29(1) of FOIP on the travel, event and meeting itineraries, on the email thread, and on the invoices.

[22] Prior to my analysis, I note the following as these will be relevant in my review.

[23] In my office’s [Review Report 186-2019](#), I found that 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) and generally would not qualify as “personal in nature” and therefore would not be considered personal information if it is used in a business context (see also [Review Report 277-2016](#), where I discuss employer-assigned cellphones and numbers for both government and non-government employees/professionals not being personal information). In my office’s [Review Report 138-2021, 185-2021](#), I found that in addition to the name and contact information of a CBC employee not being personal information, neither was their position title (see also paragraph [39] of [Review Report 137-2024](#) concerning the Ministry of Education).

[24] I also note that in [Review Report 085-2021](#), my office considered if information on an invoice would qualify as personal information. That review outlined the elements on an invoice and found that the invoice number would not qualify as personal information and could not be withheld pursuant to subsection 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act*, which is the equivalent provision to subsection

29(1) of FOIP. At paragraphs [47] to [49] of that report, I concluded that invoices related to business expenditures do not relate to an individual's private life, but rather to their business and so are not considered personal information. The only portions of an invoice that would contain personal information are ones that disclose something personal in nature about someone – in that report, it was the portion of the utility bill that disclosed the owner's personal water usage, and that would have therefore disclosed their personal water habits.

- [25] Finally, in [Order-F2015-10](#), the Alberta Information and Privacy Commissioner (AB IPC) reviewed a matter where applicants requested access to expense claims made by the Chief Executive Officer (CEO) of Alberta Health Services. The AB IPC concluded that expense claims in this context were not the “personal information [of the CEO] but rather recorded an aspect of [the CEO's] fulfillment of his job responsibilities.” Information could only be considered personal if there was a personal dimension to it; otherwise, personal information in this context should be released “for the purpose of permitting public scrutiny of the expenditure of public funds.”

Pages 1 to 14, 16 and 17 – travel, event and meeting itineraries

- [26] Pages 1 to 14 are called “Draft Itinerary for [the Minister]” (itinerary). Portions released to the Applicant confirm that the dates of the Minister's trip to Paris, France was from November 26 to December 1, 2023. The itinerary includes data elements such as the names of who attended as the “Official Delegation”, flight departure and arrival times, briefing times, event or meeting locations, panel members or speakers at events, names of organizers, etc. Portions of page 16 disclosed to the Applicant indicate that it is part of a “Club Canada Event Program” that identifies matters including times for registration and presentations. Portions of page 17 disclosed to the Applicant indicate that it is the agenda for a “Team Canada Meeting” on November 28, 2023.

[27] On pages 1, 2, 11 and 14 of the itinerary, CIC withheld portions pursuant to subsection 29(1) of FOIP that it claims are numbers that “uniquely identifies an individual”. From a review, the type of information withheld on these pages includes:

- Flight confirmation numbers and hotel confirmation numbers for the Minister, Chief of Staff to the Minister and the Vice-President of Energy Security for CIC;
- An event booking confirmation number and an order number related to the tickets for the event; and
- Ticket numbers for an event for the Minister, Chief of Staff to the Minister, the Vice President of Energy Security for CIC and the Agent-General for the Ministry of Trade and Export Development, United Kingdom (UK) Office.

[28] Numbers such as the flight confirmation numbers (page 1) and hotel confirmation numbers (page 2) relate to an event that the individuals named are attending in a professional capacity, or as a fulfillment of their job responsibilities, rather than in a personal capacity. It was known that these individuals attended these events, and so the numbers would not reveal anything personal in nature about them or their trip – it only reveals that they were on those flights. Because of this, it would not qualify as their personal information. I find that CIC has not properly applied subsection 29(1) of FOIP to this information. As such, I recommend that CIC release this type of information on pages 1, 2, 11 and 14 within 30 days of the issuance of this Report. See the Appendix for details.

[29] On pages 1 to 14 of the itinerary, on page 16 of the Club Canada Event Program and on page 17 of the Team Canada Meeting Agenda, CIC withheld the names of presenters and attendees for the “November 2023 World Nuclear Exhibition” (WNE). In some instances, CIC withheld only the name of the individual, while in other instances CIC withheld the name of the individual’s organization, the individual’s position within the organization, and/or their business contact information. CIC takes the position that the release of the names of the individuals alone would reveal something personal in nature about them, the fact that they attended the WNE.

[30] However, it appears that these individuals are acting in a professional capacity and that attending the WNE is likely in fulfillment of their job responsibilities. If the individuals

attended the event in a personal capacity, CIC has not made this argument. I add that the Club Canada Event Program on page 16 of the record is available online. As such, the names of individuals, the organizations they represent and their positions or titles, and their business contact information is not personal information. I find, then, that CIC has not properly applied subsection 29(1) of FOIP to this information. I recommend CIC release this information as it appears on pages 1 to 14 and page 16 and 17 to the Applicant within 30 days of the issuance of this Report. See the Appendix for details.

Page 90 – email thread

[31] The email thread that begins on page 90 is three pages, but CIC is relying on subsection 29(1) of FOIP only on the second email on page 90. Portions released to the Applicant disclose that the email is dated December 7, 2023, at 7:46 a.m., and was sent from one CIC employee to other CIC employees.

[32] On the second last bullet point in this email, CIC withheld the names of two individuals representing two organizations that will be followed up with; I note that CIC disclosed the names of the organizations. Release of these two names would not reveal anything personal in nature about them as they are representing the organizations in a professional capacity. As such, the information would not qualify as personal information, and I find that CIC has not properly applied subsection 29(1) of FOIP to these two names on page 90. I recommend that CIC release these names to the Applicant within 30 days of the issuance of this Report. See the Appendix for details.

Pages 93 to 95, 98 to 100, 103 to 105, and 108 to 110 – invoices

[33] Portions of the invoices disclosed to the Applicant reveal that they relate to the travel of the Minister, Chief of Staff to the Minister and the Vice-President of Energy Security for CIC. The portions of the information CIC withheld pursuant to subsection 29(1) of FOIP include the name of the Advisor for the organization that issued the invoices (on pages 93 to 108), and the name of the individual that processed the proposal or the invoice (on pages

108 to 110). On pages 108, 109 and 110, CIC withheld the cell phone number for an employe of the Ministry of Trade and Export Development. In addition, CIC also withheld the following numbers and claimed they qualify as personal information that “uniquely identifies an individual”:

- Invoice numbers;
- Proposal number;
- Travel summary record numbers;
- “Paid by” code;
- WestJet Booking Reference code;
- FF [Frequent Flyer] numbers; and
- Hotel confirmation numbers.

[34] CIC has not indicated if the cell phone number associated with an employee of the Ministry of Trade and Export Development is a personal or business cell phone number; however, the number for this individual is listed in the [Government of Saskatchewan Directory](#). As such, the cellphone number withheld on pages 108, 109 and 100 would not qualify as personal information as it is a business-related number. I find, therefore, that CIC has not properly applied subsection 29(1) of FOIP to this cellphone number and recommend that CIC release it to the Applicant within 30 days of the issuance of this Report. See the Appendix for details.

[35] The “paid by” codes on page 95 (severance 6), page 100 (severance 6) and page 105 (severance 4) consist of two letters and a four-digit code. The numbers on pages 95 and 100 are the same, while the one on page 105 is different. CIC states that these numbers are the last four-digits of a credit card. The invoices do not appear to identify the individual who paid these invoices. CIC has not identified if the cards are personal ones used by the individual traveler, or if they are business-related cards. As such, there is no identifiable individual connected to these numbers, and so the information does not qualify as personal information. I find, therefore, that CIC has not properly applied subsection 29(1) of FOIP

to the “paid by” code on page 95 (severance 6), page 100 (severance 6) and page 105 (severance 4) and recommend it release this information to the Applicant within 30 days of the issuance of this Report. See the Appendix for details.

[36] CIC claimed that the travel record numbers, invoice numbers, proposal numbers, WestJet booking reference code, and hotel confirmation numbers on pages 93 (severance 5), 94 (severances 1, 3 and 7), 95 (severances 1, 3, 5), 98 (severances 2 and 5), 99 (severances 1, 3 and 7), 100 (severances 1, 3 and 5), 103 (severances 2 and 5), 104 (severances 1, 2 and 5), 105 (severances 1 to 3) and 108 (severances 3, 8 to 10, 16 to 18 and 21 to 23), 109 (severances 3 to 5, 8 to 10, 12 to 14, 17 to 19 and 22 to 24) and 110 (severances 3 to 5) are numbers that uniquely identify an individual. CIC also claimed that the invoice and proposal numbers on the documents outline the travel and hotel accommodations for these individuals and related fees. All of these numbers or data elements relate to an event that the individuals named attended in a professional capacity, or as a fulfillment of their job responsibilities, rather than in a personal capacity. These numbers would not disclose something personal in nature about these individuals and are not identifying numbers assigned to them. The information would not qualify as personal information. In addition, I note that CIC did not consistently apply subsection 29(1) of FOIP to the proposal number in the record as CIC released this information on pages 109 and 110. I find, therefore, that CIC did not properly apply subsection 29(1) of FOIP to this information. I recommend that CIC release these portions of the record to the Applicant within 30 days of the issuance of this Report. See the Appendix for details.

[37] The exception I note on these pages is the frequent flyer number at severance numbers 2 and 4 on pages 94, 95, 99 and 100. The number appears to be the account number of the frequent flyer or loyalty program associated with the individual named. It is my understanding that such programs provide personal benefits to those who use these cards when they travel. Such information would then qualify as an identifying number associated to an individual as defined by subsection 24(1)(d) of FOIP as follows:

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

...

(d) any identifying number, symbol or other particular assigned to the individual, other than the individual's health services number as defined in *The Health Information Protection Act*;

[38] As such, the frequent flyer number at severance numbers 2 and 4 on pages 94, 95, 99 and 100, qualifies as personal information pursuant to subsection 24(1)(d) of FOIP and that CIC properly applied subsection 29(1) of FOIP to this information. I recommend that CIC continue to withhold the frequent flyer number at severance numbers 2 and 4 on pages 94, 95, 99 and 100 pursuant to subsection 29(1) of FOIP. See the Appendix for details.

3. Did CIC properly apply subsection 17(1)(a) of FOIP?

[39] CIC applied subsection 17(1)(a) of FOIP to withhold portions of pages 90 and 91. CIC also applied subsection 17(1)(a) of FOIP to withhold pages 18 to 39 in full.

[40] Subsection 17(1)(a) of FOIP states:

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;

[41] The *Guide to FOIP*, Ch. 4 at pages 128 to 131, outlines the following two-part test to determine if subsection 17(1)(a) of FOIP applies:

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

[42] Pages 128 to 130 of the *Guide to FOIP*, Ch. 4, provide the following definitions:

- “Advice” is guidance offered by one person to another. It can include 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 encompasses material that permits the drawing of inferences with respect to a suggested course of action, but which does not itself make a specific recommendation. It can be an implied recommendation. The “pros and cons” of various options also qualify as advice. It should not be given a restricted meaning. Rather, it should be interpreted to include an opinion that involves exercising judgement and skill in weighing the significance of fact. It includes expert opinion on matters of fact on which a government institution must make a decision for future action.

Advice includes the views or opinions of a public servant as to the range of policy options to be considered by the decision maker even if they do not include a specific recommendation on which option to take.

Advice has a broader meaning than recommendations.

- A “recommendation” is a specific piece of advice about what to do, especially when given officially; it is a suggestion that someone should choose a particular thing or person that one thinks particularly good or meritorious. Recommendations relate to a suggested course of action more explicitly and pointedly than “advice”. It can include material that relates to a suggested course of action that will ultimately be accepted or rejected by the person being advised. It includes suggestions for a course of action as well as the rationale or substance for a suggested course of action. A recommendation, whether express or inferable, is still a recommendation.
- A “proposal” is something offered for consideration or acceptance.
- “Analyses” (or analysis) is the detailed examination of the elements or structure of something; the process of separating something into its constituent elements.

Pages 18 to 35 - Meeting notes

[43] Pages 18 to 35 include eight different sets of meeting notes regarding meetings the Minister would be having with different entities. CIC withheld these pages of the record in full. The notes identify key topics to cover during each meeting with the various delegates that the Minister would be meeting with while attending the WNE.

[44] For the first part of the test, CIC’s submission provides that the record was created to present advice and recommendations to the Minister, a member of Cabinet, in advance of their attendance at the WNE conference in November 2023. CIC indicated that the record includes recommendations for discussion topics and outcomes.

- [45] In my office's [Review Report 291-2017, 347-2017, 234-2018, 235-2018](#), at paragraph [37], I found that information related to the recommended key messages and a suggested course of action for the purpose of a meeting qualifies as a "recommendation."
- [46] From a review of the meeting notes on pages 18 to 35, there are main bullets on each page that are in bold print. In these bullets, it identifies key messages that should be discussed at the meetings. As these are key messages to address at the meeting, the main bullets that appear in bold print qualify as recommendations. Below, I will consider the second part of the test for the main bullets on these pages.
- [47] The sub-bullets below each of the main bullets that appear in bold print contain information it is recommended the Minister speak to in order to communicate those key messages or main bullet points to the delegates. As noted earlier, the *Guide to FOIP*, Ch. 4 at page 129, states that recommendations can include "material that relates to a suggested course of action." Upon review, the sub-bulleted information provides details to support each recommended key message to be communicated at the meeting, and support or are part of the recommendation, and so would qualify as recommendations. Below, I will consider the second part of the test on the sub-bullets on these pages.
- [48] There are some portions of the meeting notes, however, that would not contain advice or recommendations as CIC states and as such, would not meet the first part of the test. These portions include the following:
- The headers on each set of meeting notes on pages 18 to 35 identify the delegates the Minister was to have met with. This information does not qualify as advice or recommendations and so I find that CIC has not properly applied subsection 17(1)(a) of FOIP to this information. CIC also applied subsections 13(1)(b), 16(1)(a) and 18(1)(d) to pages 18, 19, 31 and 32, subsections 13(1)(c) and 16(1)(a) to pages 20 to 24, subsections 16(1)(a) and 18(1)(d) to pages 25 to 30 and subsection 16(1)(a) to pages 33 to 35. I will consider these exemptions later in this Report.
 - On pages 20 and 29, the information under the first title on each page appears to be general factual information related to the delegate's country. This would be background information and would not qualify as advice or recommendations, and so I find that CIC has not properly applied subsection 17(1)(a) of FOIP to this

information. CIC also applied subsections 13(1)(c) and 16(1)(a) to page 20 and subsections 16(1)(a) and 18(1)(d) to page 29. I will consider these exemptions later in this Report.

- The footers on pages 18, 19 and 31 to 35 identify the name and business telephone number for a CIC employee, page numbers and a date. Pages 22, 26, 28 and 30 contain a file path, in some instances it is included in the footer, and in other instances it is in the body of the document. This information identifies the location that these meeting notes would be saved on a hard drive. The information in the footers and the file paths would not qualify as advice and recommendations and so I find that CIC has not properly applied subsection 17(1)(a) of FOIP to this information. CIC also applied subsections 13(1)(b), 16(1)(a) and 18(1)(d) to pages 18, 19, 31 and 32 and subsection 16(1)(a) to pages 33 to 35. I will consider these exemptions later in this Report.

[49] For the second part of the test, I will consider if the main bullets and sub-bullets on these pages of the record, that I have found to qualify as recommendations, were developed by or for a government institution or a member of the Executive Council.

[50] Page 131 of the *Guide to FOIP*, Ch. 4, provides that advice, proposals, analyses and/or policy options can be developed by a government institution or for a government institution including one not relying on the exemption. This is supported by the use of “a government institution” and not “the government institution” in the provision.

[51] CIC clarified that some of these meeting notes were created by a CIC employee, Small Modular Reactor Specialist, and other meeting notes were provided to CIC by the Ministry of Trade and Export Development’s Executive Director, International Relations Branch. As noted earlier, CIC noted in its submission that these records were developed for the Minister in advance of their attendance at the WNE. In this case the recommendations in these pages of the records were developed by a government institution and developed for a member of Executive Council.

[52] However, when considering the second part of the test, pages 131 and 132 of the *Guide to FOIP*, Ch. 4, further notes in order to be “developed by or for” the government institution, the advice, proposals, recommendations, analyses and/or policy options should:

- Be either sought, be expected or be part of the responsibility of the person who prepared the record.
- Be prepared for the purpose of doing something, for example, taking an action or making a decision.
- Involve or be intended for someone who can take or implement the action.

[53] As noted earlier, the main bullets and sub-bullets in the meeting notes on these pages qualify as recommendations. These recommendations were prepared by employees of CIC and the Ministry of Trade and Export Development for the Minister. I note that CIC's submission did not address if employees were in an advisory type of role or if it was part of their responsibility to prepare these recommendations. However, as these meeting notes were developed for a clear purpose and were intended for someone who can take action with the recommendations, in this case the Minister, I find that these recommendations were developed for a member of Executive Council. Therefore, I find that the second part of the test is met.

[54] As both parts of the test have been met, I find that CIC has properly applied subsection 17(1)(a) of FOIP to pages 18 to 35, except for what I have identified at paragraphs [48] of this Report. I recommend that CIC continue to withhold these portions of the record pursuant to subsection 17(1)(a) of FOIP. See the Appendix for details.

Pages 36 to 39 - Note to File regarding WNE and Meetings

[55] CIC provided the same description for pages 36 to 39 as it did for pages 18 to 35 including that these pages also contain advice and recommendations. However, contrary to CIC's description, it does not appear that the record on these pages was prepared in advance of the Minister's attendance at the WNE in 2023; rather, it appears to be a summary of the event after it had occurred. I note that the document appears to have been prepared by a Government of Saskatchewan employee and was intended for CIC's use.

[56] Upon review of these pages of the record, only two bulleted items in this document, one on page 36 and on page 37, contain a recommendation. As these are recommendations that

were prepared by a Government of Saskatchewan employee for CIC's use, I find that CIC properly applied subsection 17(1)(a) of FOIP to the one bulleted item on page 36 and to the other bulleted item on page 37 and recommend that it continue to withhold these bullets pursuant to subsection 17(1)(a) of FOIP. See the Appendix for details.

- [57] Regarding the remainder of the information on pages 36 to 39, it is not apparent that it contains advice or recommendations as claimed by CIC, and so the first part of the test is not met. I find, therefore, that CIC did not properly apply subsection 17(1)(a) of FOIP to the remaining information on pages 36 to 39. See the Appendix for details. CIC has also applied subsections 16(1)(a) and 18(1)(d) of FOIP to withhold these pages of the record in full. I will consider the application of these exemptions to these pages, with the exception of the two bulleted items, later in this Report.

Page 90 and 91 - Email thread

- [58] CIC's submission provides the following regarding the severances in this email thread:

Page 90 (severances 1, 2 and 6) and Page 91 (severances 7 to 10)

The severed information qualifies as advice, recommendations and analyses developed by [name of Vice-President of the Energy Security Division], Vice-President of the Energy Security Division at CIC, and therefore, by and for a government institution.

Page 90 (severance 4)

The severed information qualifies as advice and recommendations, developed by [name of Vice-President of the Energy Security Division], Vice-President of the Energy Security Division at CIC, and therefore by and for a government institution.

Page 90 (severance 7)

The severed information qualifies as a proposal and recommendation, developed by [name of Vice-President of the Energy Security Division], Vice-President of the Energy Security Division at CIC, and therefore by and for a government institution.

Page 91 (severance 4 and 5)

The severed information qualifies as analysis, developed by [name of Vice-President of the Energy Security Division], Vice-President of the Energy Security Division at CIC, and therefore by and for a government institution.

- [59] CIC withheld this email thread in part. The two emails in this thread where CIC applied its severances are from CIC's Vice President, Energy Security, to the CEO of CIC as well as other CIC employees. The first email is dated December 7, 2023, and the second one is dated December 4, 2023. Portions released to the Applicant indicate that both emails summarize meetings the Minister had at the WNE.
- [60] CIC applied subsection 17(1)(a) of FOIP in the first email (dated December 7, 2023) to bullets that summarize "points you may wish to highlight for..." CIC applied subsection 17(1)(a) of FOIP to bullet 6 under the heading "Observations", and to bullets 3 to 5 under "Opportunities".
- [61] These emails appear to summarize two employees' attendance at the WNE and meetings. While the withheld portions provide highlights of notable items, they do not appear to be advice, recommendations or analysis. Rather, information appears to contain insights the attendees gained from the meetings and identifies actions that CIC will be taking as a result. As such, the first part of the test is not met, and I find that CIC has not properly applied subsection 17(1)(a) of FOIP to pages 90 and 91.
- [62] CIC also applied subsection 13(1)(c) of FOIP to bullet 5 under the heading "Observations" on page 91, and so I will consider subsection 13(1)(c) of FOIP to this information later in this Report. I recommend that CIC release the remaining portions where it applied subsection 17(1)(a) of FOIP on pages 90 and 91 to the Applicant within 30 days of the issuance of this Report. See the Appendix for details.

4. Did CIC properly apply subsection 16(1)(a) of FOIP?

[63] CIC applied subsection 16(1)(a) of FOIP to withhold pages 18 to 39 in full. This exemption states:

16(1) A head shall refuse to give access to a record that discloses a confidence of the Executive Council, including:

(a) records created to present advice, proposals, recommendations, analyses or policy options to the Executive Council or any of its committees;

[64] Page 94 of the *Guide to FOIP*, Ch. 4, provides that subsection 16(1) of FOIP is a mandatory class-based provision. Subsections 16(1)(a) through (d) of FOIP are not an exhaustive list. Therefore, even if none of the subsections are found to apply, the introductory wording of subsection 16(1) of FOIP must still be considered.

[65] The *Guide to FOIP*, Ch. 4, pages 100 to 103, offers the following two-part test to determine if the exemption was properly applied:

1. Does the record contain advice, proposals, recommendations, analyses or policy options?
2. Was the record created to present to Cabinet or any of its committees?

[66] CIC states as follows:

This record was created to present advice and recommendations to [name of Minister], a member of Cabinet, in advance of his attendance at the WNE conference in November 2023.

The record includes “guidance offered by one person to another”... Further, the record includes recommendations for discussion topics and outcomes...

[67] In this Report, I previously provided definitions for “advice” and “recommendations”.

[68] My office’s *Guide to FOIP*, Ch. 4 at page 94, provides that subsections 16(1)(a) through (d) of FOIP are not an exhaustive list. Therefore, even if none of the subsections are found

to apply, the introductory wording of subsection 16(1) of FOIP must still be considered. In other words, I must ask if the withheld information is a confidence of Executive Council.

[69] Page 100 of the *Guide to FOIP*, Ch. 4, provides the following definitions:

- “Cabinet confidences” are generally defined as, in the broadest sense, the political secrets of Ministers individually and collectively, the disclosure of which would make it very difficult for the government to speak in unison before Parliament and the public.
- “Including” means that the list of examples that follows is not complete (non-exhaustive). The examples in the provision are the types of information that could be presumed to disclose a confidence of the Executive Council (Cabinet).

[70] Paragraph [63] of my office’s [Review Report F-2012-004](#), stated: “[b]ackground materials for Cabinet that contain essentially factual information usually should be available to the public and would not warrant the same confidentiality that applies to Cabinet confidences”. This type of information is often captured in the “background” section of a briefing note.

[71] Further, my office’s [Review Report 016-2024](#) at paragraphs [122] and [123] references a Supreme Court of Canada decision about the cabinet confidence exemption in Ontario’s *Freedom of Information and Protection of Privacy Act* (FIPPA), which states as follows:

[122] Regarding the purpose of the equivalent provision under Ontario’s *Freedom of Information and Protection of Privacy Act* (FIPPA), the Supreme Court of Canada (SCC) stated in *Ontario (Attorney General) v. Ontario (Information and Privacy Commissioner)*, 2024 SCC 4 (CanLII), at paragraph [3]:

Just as legislative privilege protects the ability of elected representatives to act on the will of the people (*Chagnon v. Syndicat de la fonction publique et parapublique du Québec*, 2018 SCC 39, [2018] 2 S.C.R. 687), and deliberative secrecy preserves the independence of the judiciary (*MacKeigan v. Hickman*, 1989 CanLII 40 (SCC), [1989] 2 S.C.R. 796, at pp. 830-31), Cabinet confidentiality grants the executive the necessary latitude to govern in an effective, collectively responsible manner (*Babcock v. Canada (Attorney General)*, 2002 SCC 57, [2002] 3 S.C.R. 3, at para. 15). Cabinet secrecy is “essential to good government” (*ibid.*), as it promotes deliberative candour, ministerial solidarity, and governmental efficiency by protecting Cabinet’s deliberations (*B.C. Judges*, at paras. 95-97; *Carey v. Ontario*, 1986 CanLII 7 (SCC), [1986] 2 S.C.R. 637, at pp. 658-59).

[123] Saskatchewan's exemption for cabinet documents is different from the exemption found in Ontario's FIPPA. However, these general comments from the SCC about the purpose of the Ontario exemption are instructive here.

Pages 18 to 35 - Meeting notes

[72] I previously described pages 18 to 35 as containing a series of eight separate meeting notes that identify key topics for the Minister to cover at the WNE. I previously found that subsection 17(1)(a) of FOIP applies to the main bullets that are in bolded text and to the sub-bullets beneath them, but not to the remainder of those pages which includes the headers, footers, file paths and general factual information. In my review of subsection 17(1)(a) of FOIP, I stated that this type of information did not qualify as advice or recommendations, and so the first part of the test for subsection 16(1)(a) of FOIP would also not be met. As such, I find that CIC has not properly applied subsection 16(1)(a) of FOIP to this information.

[73] CIC also applied subsections 13(1)(b), and 18(1)(d) of FOIP to pages 18, 19, 31 and 32, subsection 13(1)(c) of FOIP to pages 20 to 24 and subsection 18(1)(d) of FOIP to pages 25 to 30. I will consider these exemptions later in this Report. As CIC has not applied additional exemptions to pages 33 to 35, I recommend CIC release the header and footers on pages 33 to 35 to the Applicant within 30 days of the issuance of this Report. See the Appendix for details.

Pages 36 to 39 - Note to File regarding the WNE and Meetings

[74] I previously described pages 36 to 39 as containing a summary of the Minister's trip to the WNE. While CIC's submission states that this record was prepared to provide advice and recommendations to the Minister in advance of meetings they would be attending, I had noted that they did not appear to be prepared in advance.

[75] I have already found that CIC properly applied subsection 17(1)(a) of FOIP to a bulleted item on page 36 and another bulleted item on page 37. I am considering subsection 16(1)(a)

of FOIP on the remaining portions. In my review of subsection 17(1)(a) of FOIP, however, I stated that the remaining portions did not contain advice or recommendations as claimed by CIC, and so the first part of the test for subsection 16(1)(a) of FOIP is also not met here. As such, I find that CIC has not properly applied subsection 16(1)(a) of FOIP to the remaining portions of pages 36 to 39. As CIC has also applied subsection 18(1)(d) of FOIP to these portions of the record, I will consider the application of that exemption to this information later in this Report.

5. Did CIC properly apply subsection 19(1)(b) of FOIP?

[76] CIC applied subsection 19(1)(b) of FOIP to withhold portions of pages 1, 2, 91, and 93 to 113. CIC also applied subsection 19(1)(b) of FOIP to withhold pages 40 to 89 in full. As noted at paragraph [15] of this Report, the ten entities identified by CIC qualify as third parties pursuant to subsection 2(1)(j) of FOIP.

[77] Subsection 19(1)(b) of FOIP states:

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;

[78] As set out in my office's *Guide to FOIP*, Ch. 4 at pages 203 to 211, my office uses the following three-part test to determine if subsection 19(1)(b) of FOIP applies:

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?

[79] CIC claims the information withheld qualifies as financial information, commercial information or technical information of a third party. One of the third parties has claimed a portion of the record contains information that qualifies as financial, commercial, scientific and technical information. These terms are defined in the *Guide to FOIP*, Ch. 4 at pages 204 and 205, as follows:

- “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.
- “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.
- “Scientific information” is information exhibiting the principles or methods of science. The information could include designs for a product and testing procedures or methodologies. It is information belonging to an organized field of knowledge in the natural, biological, or social sciences or mathematics. In addition, for information to be characterized as scientific, it must relate to the observation and testing of specific hypothesis or conclusions and be undertaken by an expert in the field. Finally, scientific information must be given a meaning separate from technical information.
- “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.

[80] The *Guide to FOIP*, Ch. 4 at page 205, states that “supplied” means provided or furnished. Pages 207 and 208 state that “in confidence” means a situation of mutual trust between the parties exists in which private matters are related or reported. Information obtained in confidence means the supplier has indicated how the information may be disseminated. For confidence to be found, there must be an implicit or explicit agreement or understanding of confidentiality on both the parties. “Implicit” means the confidentiality is understood

though no actual statement of confidentiality exists. “Explicit” means confidentiality has been expressly stated.

Pages 1 and 2 - Travel and Event Itinerary

Pages 93 to 113 - Invoices

- [81] CIC withheld the business contact information for a hotel on pages 1 and 2 of the record. The information it withheld on pages 93 to 113 includes the name of a travel advisor company, the name of a hotel, the name of a transportation company, business contact information for these organizations, general travel details (such as passport requirements, check-in procedure for flights, general terms and conditions of the travel advisor, etc.) and invoice details (such as invoice numbers, payment options, a number that identifies a business, tax identification number, etc.).
- [82] CIC takes the position that each of the redacted portions on pages 1, 2 and 93 to 113 qualifies as commercial information. In addition, CIC has taken the position that the information redacted on pages 112 (severances 11 to 14) and 113 (severances 11 to 14) qualifies as commercial and financial information. However, CIC’s submission does not explain how the information qualifies as any of these.
- [83] Upon review, it is not apparent how the information withheld on pages 1, 2, and 93 to 113 would qualify as commercial or financial information. This information does not appear to identify the third party’s financial capacity or resources or relate to the third party’s buying or selling of goods or services in a commercial sense.
- [84] Additionally, regarding tax identification information numbers found on pages 93, 98, 103, 110, 112 and 113, in my office’s [Review Report 145-2019](#), I found these would qualify as commercial information except when provided to others in a non-confidential manner. That is, at paragraphs [101] and [102] of that report, I considered that tax identification numbers cannot be supplied in confidence when businesses are required to provide them on an invoice. In such circumstances, the information would not be provided in confidence as

required by the third part of the test. I continue this same approach here and also consider that the tax identification number would not qualify as commercial information.

- [85] The first part of the test is not met. I find, therefore, that CIC did not properly apply subsection 19(1)(b) of FOIP where it applied it on pages 1, 2 and 93 to 113. As CIC did not apply any other exemptions to these portions of the record, I recommend that CIC release these portions of the record to the Applicant within 30 days of the issuance of this Report. See the Appendix for details.

Page 91 - Email thread

- [86] CIC withheld the eighth bulleted item under the heading “Observations” on page 91, which is all I need to consider pursuant to subsection 19(1)(b) of FOIP. CIC states that the information “qualifies as commercial information of a third party as it relates to the buying, selling or exchange of merchandise or services”, but did not state how. CIC also stated that the third party had provided the information to CIC in confidence, but also did not state how.

- [87] The information in bullet 8 appears to identify a potential interest of a third party, but it is just a brief statement that does not include any context. It is not clear how it would qualify as commercial information, and so the first part of the test is not met. As such, I find that CIC has not properly applied subsection 19(1)(b) of FOIP to this bullet 8 on page 91. Since CIC stated it is no longer relying on subsection 19(1)(a) of FOIP to bullet 8 on page 91, I recommend it release this information to the Applicant within 30 days of the issuance of this Report. See the Appendix for details.

Pages 40 to 89 – Presentation Slides

- [88] Regarding its reliance on subsection 19(1)(b) of FOIP to pages 40 to 89, CIC submits as follows:

... [Third Party A's] presentation includes its business plan and experiences, both of which have commercial value. It also provides details on the methods and operations it intends to implement for the purpose of developing, financing, owning and operating [a project].

...The presentation includes descriptions of [Third Party A's] proposed phased development, operation and its ultimate production...

The presentation was supplied to Saskatchewan and CIC as part of [Third Party A's] presentation at WNE 2023.

This presentation was supplied in confidence explicitly. It is clearly noted throughout the presentation that the information included in this record is "Highly Confidential" and not to be duplicated or distributed.

[89] In addition, Third Party A, also provided a submission. In it, Third Party A states as follows:

The Record constitutes a body of information that is of a financial, commercial, scientific and technical nature and was supplied by [Third Party A] to a government institution in confidence explicitly. Each page of the Records bears the legend: "Highly Confidential – Do Not Duplicate or Distribute"

[90] I have previously in this Report provided definitions for financial, commercial, scientific and technical information. I have also discussed what supplied and confidential mean.

[91] The presentation appears to relate to a green energy project. Information regarding this project is available online, including references to the project collaborators. The slides include information on the multi-phase plan for this project and go into further detail about each of those phases and which project partners are involved in each phase. They also contain information about each of the project partners, details about the site of the project and links to information about this project. Pages 40 to 63 of the record appear to be the main presentation slides. Pages 64 to 89 of the record are labelled "Appendix I" to "Appendix V." Of the five appendices, the first three provide further information about each of the project partners. The last two appendices contain information related to the nature of the project of the presentation.

[92] Neither the submission from CIC nor from Third Party A identifies what information in these pages of the record qualifies as financial, commercial, scientific or technical information. While there are some presentation slides that provide general information about Third Party A, it appears the majority of the information in the slides is not information specific to Third Party A. It appears that there is information of a financial nature regarding production costs (e.g., pages 46), information that could qualify as commercial information as there is data that appears to be market research related to a project of this nature (pages 77 and 78) and information that could be technical information as it contains design specifications for equipment and technology related to a project of this nature (e.g., pages 80 to 84). However, the portions of the record that may contain financial and commercial information contain links to external sources for the information. It does not appear to be financial information or commercial information of any specific third party. For the information that may qualify as technical information, the design specifications for equipment and technology relate to those developed by another third party. From a review of their website, details about these equipment and technology are available online. As the submissions from CIC and Third Party A do not specify what portions of this record contain third party information, based on a review on the face of the record, I find that the first part of the test is not met.

[93] I add that as CIC indicated, the “presentation was supplied to Saskatchewan and CIC as part of [Third Party A’s] presentation at WNE 2023.” However, even if the information was supplied to CIC by Third Party A, it would have to show that the information was supplied to them in confidence implicitly or explicitly. Both CIC and Third Party A note the confidentiality statement on the presentation slides; however, CIC indicated that the presentation was supplied to them as part of Third Party A’s presentation at the WNE. If these presentation slides were presented at the WNE, it is likely there would have been more attendees than only the CIC, and so it is unclear how the presentation was supplied to CIC in confidence. Page 211 of the *Guide to FOIP*, Ch. 4, also states that simply labeling something as confidential does not make it so; it is just one factor that my office considers when determining if something was supplied in confidence. A government institution or third party would need to provide more context.

[94] In the absence of persuasive detailed arguments from CIC and Third Party A on the first part, it was not met. As such, I find that CIC has not properly applied subsection 19(1)(b) of FOIP to pages 40 to 89.

[95] CIC also applied subsection 19(1)(a) of FOIP to these pages of the record. While CIC indicated that it was no longer relying on subsection 19(1)(c) of FOIP, Third Party A, raised the application of subsection 19(1)(c)(i) of FOIP to pages 40 to 89. As such, I will also consider the application of this exemption to these pages later in this Report.

6. Did CIC properly apply subsection 19(1)(a) of FOIP?

[96] CIC applied subsection 19(1)(a) of FOIP to withhold pages 40 to 89 in full. Subsection 19(1)(a) of FOIP states:

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;

[97] My office's *Guide to FOIP*, Ch. 4 at pages 201 to 202, used the following definition for the application of subsection 19(1)(a) of FOIP:

“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.
- iv) The possessor must have an interest (e.g., an economic interest) worthy of legal protection.

The information must meet all the above criteria to be considered a trade secret.

[98] CIC stated the following:

Throughout the record, a notation exists stating “Highly Confidential – Do Not Duplicate or Distribute”. It was therefore explicitly the intention of [Third Party A] that the information contained in this record remain secret.

The presentation outlines in detail [Third Party A’s] business strategy and operations. If made public, it could easily be used or applied by another company in the nuclear industry to the detriment of [Third Party A].

[Third Party A] also has a proprietary and economic interest in the presentation that is worthy of protection.

[99] Third Party A provided the following arguments:

The record constitutes a trade secret embodying the proprietary work product of [Third Party A]

...It represents the culmination of years of confidential work by [Third Party A] and has been managed carefully by [Third Party A] to maintain the confidentiality of the information contained therein. Its release to the public would be a devastating setback to [Third Party A] business and prospects.

[100] Neither CIC nor [Third Party A] has identified what trade secret is involved, or how it involves a plan or process, tool, mechanism or compound. In my office’s [Review Report 068-2024](#) concerning the Saskatchewan Power Corporation (SaskPower), I stated at paragraph [69] that SaskPower and the third party in that report failed to demonstrate how there was a plan or process, tool, mechanism or compound involved. I added examples of well-known trade secrets including things like KFC’s “secret mix of herbs and spices”, which KFC would obviously want to protect because of the commercial value it holds for KFC. Neither CIC nor Third Party A has demonstrated that the information involves a plan or process, tool, mechanism or compound that holds some commercial value for Third Party A that needs to be protected, and so the test is not met. I find, therefore, that CIC has not properly applied subsection 19(1)(a) of FOIP to pages 40 to 89. As Third Party A has raised subsection 19(1)(c) of FOIP to this information, I will consider it next.

7. Did CIC properly apply subsection 19(1)(c)(i) of FOIP?

[101] As noted earlier, CIC indicated it was no longer relying on subsection 19(1)(c) of FOIP. However, as a third party is able to raise the application of any of the exemptions under subsection 19(1) of FOIP, I will consider the application of subsection 19(1)(c)(i) of FOIP to withhold pages 40 to 89 in full.

[102] Subsection 19(1)(c)(i) of FOIP states:

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;

...
a third party;

[103] The two-part test that can be applied for subsection 19(1)(c)(i) of FOIP is referenced at page 216 of the *Guide to FOIP*, Ch. 4, as follows:

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?

[104] Third Party A stated as follows:

The Record constitutes the secret and proprietary work product of [Third Party A] resulting from extensive research, analysis and investment of professional time, effort and expense by [Third Party A]. As a result the Record is of substantial value in a competitive market and release to the public could reasonably be expected to result in financial loss to [Third Party A] and potential gain to a competitive third party.

[105] Pages 216 to 217 of the *Guide to FOIP*, Ch. 4, offer the following definitions:

- “Financial loss or gain” must be monetary, have a monetary equivalent or value (e.g., loss of revenue or loss of corporate reputation).
- “Could reasonably be expect to” means there must be a reasonable expectation that disclosure could result in financial loss or gain to a third party.

[106] Further, page 218 of the *Guide to FOIP*, Ch. 4, provides that 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.

[107] Third Party A has not stated what the financial loss would be, including the value of the loss. Third Party A has also not provided information or evidence to support the harm that would result from disclosure. As both parts of the test are not met, I find that subsection 19(1)(c)(i) of FOIP does not apply to pages 40 to 89 of the record. As there are no other exemptions left to review on these pages, I recommend that CIC release these pages of the record to the Applicant within 30 days of the issuance of this Report.

8. Did CIC properly apply subsection 18(1)(d) of FOIP?

[108] CIC applied subsection 18(1)(d) of FOIP to withhold pages 18, 19, 25 to 32 and 36 to 39 in full. As I have already found that subsection 17(1)(a) applies to parts of pages 18 to 39, I will only consider the application of subsection 18(1)(d) of FOIP to the remaining portions of these pages of the record. See the Appendix for details.

[109] Subsection 18(1)(d) of FOIP states:

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;

[110] The *Guide to FOIP*, Ch. 4 at pages 180 and 181, outlines the following two-part test to determine if subsection 18(1)(d) of FOIP applies:

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?

[111] The *Guide to FOIP*, Ch. 4 at page 180 provides the following definition:

A “negotiation” is a consensual bargaining process in which the parties attempt to reach agreement on a disputed or potentially disputed matter. It can also be defined as dealings conducted between two or more parties for the purpose of reaching an understanding. It connotes a more robust relationship than “consultation”. It signifies a measure of bargaining power and a process of back-and-forth, give-and-take discussion.

Prospective or future negotiations could be included within this exemption, as long as they are foreseeable. It may be applied even though negotiations have not yet started at the time of the access to information request, including when there has not been any direct contact with the other party or their agent. However, **a vague possibility of future negotiations is not sufficient. There must be a reasonable fact-based expectation that the future negotiations will take place.**

...

When under review by the IPC, government institutions will be invited to provide the IPC with its submission (i.e., arguments) as to why the exemption applies. **Government institutions should detail what negotiations are occurring and what parties are involved.**

[Emphasis added]

Pages 18, 19 and 25 to 32 - Meeting notes

[112] I previously described these pages as containing a series of eight separate meeting notes that identify key topics for the Minister to cover at the WNE. CIC applied subsection

18(1)(d) of FOIP to withhold these pages in full. However, I already found that subsection 17(1)(a) of FOIP applies to the main bullets that are in bolded text and to the sub-bullets beneath them, but not to the remainder of those pages which includes the headers, footers, file paths and general factual information.

[113] In its submission, CIC states that the purpose of the meeting was to discuss “ongoing activities occurring under the MOU and for Saskatchewan to offer its support...” CIC did not provide further information or context than this, and it’s not clear how disclosure of the headers, footers, file paths and general factual information would lead anyone to understand what the negotiation is and if it is occurring (or could occur in the future). The first part of the test is not met, and I find that CIC has not properly applied subsection 18(1)(d) of FOIP to the headers, footers, file paths and general factual information on these pages of the record.

[114] As CIC has also applied subsection 13(1)(b) of FOIP to pages 18, 19, 31 and 32 and subsection 13(1)(c) of FOIP to pages 20 to 24, I will consider the application of these exemptions later in this Report.

Pages 36 to 39 - Note to File regarding the WNE and Meetings

[115] I previously described pages 36 to 39 as containing a summary of the Minister’s trip to the WNE. I have already found that CIC properly applied subsection 17(1)(a) of FOIP to a bulleted item on page 36 and another bulleted item on page 37. While CIC’s submission has previously described the record as being prepared in advance of the Minister’s attendance at WNE, I previously stated that it appeared to be created afterwards to “summarize the numerous events and discussions”.

[116] CIC has not provided me with any information to conclude that these meetings were anything more than preliminary discussions with third parties. CIC has not described any negotiations, or if such negotiations are current, ongoing or will occur in the future. As the first part of the test is not met, I find CIC has not properly applied subsection 18(1)(d) of

FOIP to pages 36 to 39 of the record. As there are no other exemptions to review, I recommend that CIC release pages 36 to 39, except for a bulleted item on page 36 and another bulleted item on page 37 where I have already found that CIC properly applied subsection 17(1)(a) of FOIP. See the Appendix for details.

9. Did CIC properly apply subsections 13(1)(a), (b) and (c) of FOIP?

[117] CIC applied subsection 13(1)(a) of FOIP to withhold portions of pages 2 and 11. CIC applied subsection 13(1)(b) of FOIP to withhold portions of page 91 and pages 18, 19, 31 and 32 in full. CIC applied subsection 13(1)(c) of FOIP to withhold portions of pages 6, 7 and 91 and pages 20 to 24 in full. CIC indicated in its submission it was no longer relying on subsection 13(1)(c) of FOIP to withhold pages 25 to 26 and 29 to 30.

[118] As I have already found that subsection 17(1)(a) of FOIP applies to parts of pages 18 to 32, I will only consider the application of subsections 13(1)(b) and (c) of FOIP to the remaining portions of these pages of the record. See the Appendix for details.

[119] Subsections 13(1)(a), (b) and (c) of FOIP state:

13(1) A head shall refuse to give access to information contained in a record that was obtained in confidence, implicitly or explicitly, from:

(a) the Government of Canada or its agencies, Crown corporations or other institutions;

(b) the government of another province or territory of Canada, or its agencies, Crown corporations or other institutions;

(c) the government of a foreign jurisdiction or its institutions;

unless the government or institution from which the information was obtained consents to the disclosure or makes the information public.

[120] Page 16 of the *Guide to FOIP*, Ch. 4, provides that subsection 13(1) of FOIP is a mandatory class-based provision. It permits refusal of access to information in records received in confidence both formally and informally from other governments including its agencies or

institutions. When considering this provision, government institutions should determine whether there is consent to release the information or if the information has been made public by the organization to which the information was obtained.

[121] The *Guide to FOIP*, Ch. 4 at pages 17 to 30, provides a three-part test for subsections 13(1)(a), (b) and (c) of FOIP. The first part of the test differs for each exemption, but the second and third parts are the same. The tests for each subsection are as follows:

Subsection 13(1)(a) of FOIP

1. Was the information obtained from the Government of Canada or its agencies, Crown corporations or other institutions?
2. Was the information obtained implicitly or explicitly in confidence?
3. Is there consent to disclose the information or has the information been made public?

Subsection 13(1)(b) of FOIP

1. Was the information obtained from government of another province or territory of Canada, or its agencies, Crown corporations or other institutions?
2. Was the information obtained implicitly or explicitly in confidence?
3. Is there consent to disclose the information or has the information been made public?

Subsection 13(1)(c) of FOIP

1. Was the information obtained from the government of a foreign jurisdiction or its institutions?
2. Was the information obtained implicitly or explicitly in confidence?
3. Is there consent to disclose the information or has the information been made public?

[122] In my review of subsection 19(1)(b) of FOIP I discussed what “in confidence” means. The *Guide to FOIP*, Ch. 4 at pages 17 to 21, provides these additional definitions:

- “Obtained” means to acquire in any way; to get possession of; to procure; or to get a whole of by effort.

...

Section 13 of FOIP uses the term “information contained in a record” rather than “a record” like other exemptions in FOIP. Therefore, the exemption can apply to information contained within a record that was authored by the government institution provided the information at issue was obtained from [the Government of Canada, government of another province or territory of Canada, or the government of a foreign jurisdiction].

- “Information” means facts or knowledge provided or learned as a result of research or study.
- “Consent” in this context means there is an agreement, approval, or permission to disclose the information.
- “Public” in this context means the information in the record is open to view by the public.
- “Released to the public” means made available to the public at large either through active dissemination channels or through provision of the information at specific locations (e.g. public libraries, posted on a website).

Consultation with the other party or parties from which the information was obtained should take place to determine if either consent will be given or if the information has or will be made public.

Pages 18 to 24, 31 and 32 - Meeting notes

[123] CIC applied subsection 13(1)(b) of FOIP to pages 18, 19, 31 and 32 and subsection 13(1)(c) of FOIP to pages 20 to 24. Earlier I found that subsection 17(1)(a) of FOIP applies to most of these portions of the record. The information remaining includes headers, footers, file paths and general factual information. These details do not appear to have been obtained from a government of another province or a government of a foreign jurisdiction. As the first part of the test is not met, I find that CIC has not properly applied subsections 13(1)(b) and (c) of FOIP to these portions of the record. As there are no other exemptions to review for the headers, footers, file paths and general factual information on pages 18, 19, 31 and 32, I recommend that CIC release the headers, footers, file paths and general information

on these pages of the record within 30 days of the issuance of this Report. See the Appendix for details.

Pages 2 and 11 - Travel and Event Itineraries

[124] CIC applied subsection 13(1)(a) of FOIP to pages 2 and 11, and claims that it obtained the information on these pages in confidence from the Canadian Embassy in Paris and the Canada-France Chamber of Commerce. For the first part of the test, CIC needs to demonstrate how these qualify as being “obtained from the Government of Canada or its agencies, Crown corporations or other institutions”. That is, for example, if these entities qualify as an agency or institution of the Government of Canada. I would consider it to be common knowledge that the Canadian Embassy is part of the federal government. However, for the Canada-France Chamber of Commerce, CIC would need to provide evidence to support this assertion in order for the first part of the test to be met but did not do so. Even if it can be established that these are agencies or institutions of the Government of Canada, CIC would still need to demonstrate that it obtained the information in confidence either explicitly or implicitly. CIC did not do this, either. While these portions of the records do not indicate that confidence is explicit, I am not able to determine that confidence would be implicitly expected, either. As the first and second parts of the test are not met, I find CIC did not properly apply subsection 13(1)(a) of FOIP where it applied it on pages 2 and 11. As there are no other exemptions left for me to review for this information, I recommend CIC release it to the Applicant within 30 days of the issuance of this Report. See the Appendix for details.

Page 91 - Email thread

[125] Page 91 is part of an email thread that outlines some observations from meetings and events attended by the Minister during the WNE. CIC notes that the information withheld at bullets 3 to 5 includes information that it obtained in confidence from the Governments of Ontario and New Brunswick. While it appears that CIC may have obtained the information in these bullets from the Governments of Ontario and New Brunswick, CIC has not

provided information or evidence to support that it obtained this information in confidence either explicitly or implicitly, and this is not obvious from a review of the record, either. As the second part of the test is not met, I find that CIC has not properly applied subsection 13(1)(b) of FOIP to bullets 3 to 5 on page 91. As there are no other exemptions to review, I recommend that CIC release bullets 3 to 5 on page 91 within 30 days of the issuance of this Report. See the Appendix for details.

Pages 6 and 7 - Travel and Event Itinerary

Page 91 - Email thread

[126] CIC withheld portions of pages 6, 7 and 91 of the record pursuant to subsection 13(1)(c) of FOIP. CIC indicated that the information withheld on pages 6 and 7 is information obtained in confidence from a government of a foreign jurisdiction; however, from a review of the records, the information on pages 7 relates to a meeting with a different country than what CIC named. CIC's submission did not address how subsection 13(1)(c) of FOIP applies to page 91; however, it appears that the redacted portion relates to an item involving another foreign country. The information withheld on pages 6 and 7 appears to relate to the meeting scheduled with a government of a foreign jurisdiction and indicates that the withheld details related to the request to meet. CIC's submission has not provided me with any details to support that any of the information on these pages of the record were obtained in confidence from the government of a foreign jurisdiction. As the first and second parts of the test are not met, I find that CIC has not properly applied subsection 13(1)(c) of FOIP to where it applied it on pages 6, 7 and 91 of the record. I recommend that CIC release these portions of the record within 30 days of the issuance of this Report. See the Appendix for details.

10. Did CIC comply with section 8 of FOIP?

[127] As I noted earlier, CIC withheld pages 18 to 89 of the record in full. Section 8 of FOIP provides:

- 8** Where a record contains information to which an applicant is refused access, the head shall give access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused access.
- [128] Page 69 of the *Guide to FOIP*, Chapter 3, “Access to Records”, updated May 5, 2023 (*Guide to FOIP*, Ch. 3) states that a line-by-line review is essential to comply with the principle of severability set out in section 8 of FOIP. This provision grants an applicant a right of access to any record from which exempted material can be reasonably severed.
- [129] It appears that CIC applied exemptions to pages 18 to 89 of the record in a blanket fashion, rather than a line-by-line review. While my office asked the CIC address how it met its obligations under section 8 of FOIP, it does not appear CIC addressed this in its submissions to my office. As noted in my office’s [Review Report 056-2024](#), even if a government institution establishes reasons to deny access to a record, it also needs to consider what portions of a record can be released pursuant to section 8 of FOIP. For example, I have often said that government institutions should still release innocuous parts of a record or those that do not reveal the substance, which may include subject lines, headers, footers, dates, etc. Government institutions should also turn their minds towards portions of a record that may not be exempt, including information that may be publicly known.
- [130] I acknowledge that CIC appears to have conducted a line-by-line review on the remaining pages of the record; however, it is unclear how CIC determined that it was necessary for pages 18 to 89 of the record to be withheld in full. I am also mindful that for pages 40 to 89 of the record, Third Party A has taken the position that the information on these pages be withheld in full, which may have factored into CIC’s decision. However, as addressed earlier in this Report, on pages 18 to 35, CIC withheld headers, footers, file paths and general information on these pages. If CIC conducted a line-by-line review of these pages and took into consideration its obligations under section 8 of FOIP, it is unclear how it determined these portions of the record should be withheld.

[131] Going forward, I encourage CIC to be mindful of its obligation pursuant to section 8 of FOIP.

IV FINDINGS

[132] I find that I have jurisdiction to conduct this review.

[133] I find that CIC has properly applied subsections 17(1)(a) and 29(1) of FOIP to some portions of the record, but not others. See Appendix for details.

[134] I find that CIC has not properly applied subsections 13(1)(a), (b), (c), 16(1)(a), 18(1)(d), 19(1)(a) and (b) of FOIP to the record.

[135] I find that subsection 19(1)(c)(i) of FOIP does not apply to pages 40 to 89 of the record.

V RECOMMENDATION

[136] I recommend that CIC continue to withhold the portions of the record where I have found that subsections 17(1)(a) or 29(1) of FOIP to apply and release the remaining portions as outlined in the Appendix, within 30 days of issuance of this Report.

Dated at Regina, in the Province of Saskatchewan, this 16th day of October, 2024.

Ronald J. Kruzeniski, K.C.
A/Saskatchewan Information and Privacy
Commissioner

Appendix

Page #	Record Description	Withheld in Full or in Part	Severance #	FOIP Exemption(s) Applied	Recommendation
1	Travel & Event Itinerary page 1 of 14	Withheld in part	1 to 6	29(1)	Release
			7 to 8	19(1)(b)	Release
2	Travel & Event Itinerary page 2 of 14	Withheld in part	1	19(1)(b)	Release
			2 to 4	29(1)	Release
			5 to 10	13(1)(a)	Release
			11 to 15	29(1)	Release
3	Travel & Event Itinerary page 3 of 14	Withheld in part	1 to 6	29(1)	Release
4	Travel & Event Itinerary page 4 of 14	Withheld in part	1 to 11	29(1)	Release
			15 to 21	29(1)	Release
5	Travel & Event Itinerary page 5 of 14	Withheld in part	1 to 12	29(1)	Release
			14 to 16	29(1)	Release
6	Travel & Event Itinerary page 6 of 14	Withheld in part	1	29(1)	Release
			2 to 5	13(1)(c)	Release
			6 to 11	29(1)	Release
7	Travel & Event Itinerary page 7 of 14	Withheld in part	1 to 2	29(1)	Release
			3 to 5	13(1)(c)	Release
			6 to 16	29(1)	Release
8	Travel & Event Itinerary page 8 of 14	Withheld in part	1 to 7	29(1)	Release

Page #	Record Description	Withheld in Full or in Part	Severance #	FOIP Exemption(s) Applied	Recommendation
9	Travel & Event Itinerary page 9 of 14	Withheld in part	1 to 14	29(1)	Release
10	Travel & Event Itinerary page 10 of 14	Withheld in part	1 to 4	29(1)	Release
			6 to 13	29(1)	Release
11	Travel & Event Itinerary page 11 of 14	Withheld in part	1 to 5	29(1)	Release
			6	13(1)(a)	Release
			7 to 12	29(1)	Release
12	Travel & Event Itinerary page 12 of 14	Withheld in part	4 to 7	29(1)	Release
13	Travel & Event Itinerary page 13 of 14	Withheld in part	1 to 9	29(1)	Release
14	Travel & Event Itinerary page 14 of 14	Withheld in part	1 to 11	29(1)	Release
16	Club Canada Event Program	Withheld in part	1 to 13	29(1)	Release
17	Team Canada Meeting Agenda	Withheld in part	1 to 14	29(1)	Release
18 to 19	Meeting Notes	Withheld in full		13(1)(b), 16(1)(a), 17(1)(a), 18(1)(d)	Release header and footer on page 18 and footer on page 19.

Page #	Record Description	Withheld in Full or in Part	Severance #	FOIP Exemption(s) Applied	Recommendation
					Withhold remaining portions pursuant to subsection 17(1)(a) of FOIP.
20 to 22	Meeting Notes	Withheld in full		13(1)(c), 16(1)(a), 17(1)(a)	Release header and general factual information on page 20 and the file path on pages 21 and 22. Withhold remaining portions pursuant to subsection 17(1)(a) of FOIP.
23 to 24	Meeting Notes	Withheld in full		13(1)(c), 16(1)(a), 17(1)(a)	Release header on page 23. Withhold remaining portions pursuant to subsection 17(1)(a) of FOIP.
25 to 26	Meeting Notes	Withheld in full		16(1)(a), 17(1)(a), 18(1)(d)	Release header on page 25 and file path on page 26. Withhold remaining portions pursuant to subsection 17(1)(a) of FOIP.
27 to 28	Meeting Notes	Withheld in full		16(1)(a), 17(1)(a), 18(1)(d)	Release header on page 27 and file path on page 28. Withhold remaining portions pursuant to subsection 17(1)(a) of FOIP.
29 to 30	Meeting Notes	Withheld in full		16(1)(a), 17(1)(a), 18(1)(d)	Release header and general factual information on page 29 and file path on page 30. Withhold remaining portions pursuant to subsection 17(1)(a) of FOIP.
31 to 32	Meeting Notes	Withheld in full		13(1)(b), 16(1)(a), 17(1)(a), 18(1)(d)	Release header and footer on page 31 and footer on page 32. Withhold remaining portions pursuant to subsection 17(1)(a) of FOIP.

Page #	Record Description	Withheld in Full or in Part	Severance #	FOIP Exemption(s) Applied	Recommendation
33 to 35	Meeting Notes	Withheld in full		16(1)(a), 17(1)(a)	Release header and footer on page 33 and footers on pages 34 and 35. Withhold remaining portions pursuant to subsection 17(1)(a) of FOIP.
36 to 39	Note to File regarding the WNE and Meetings	Withheld in full		16(1)(a), 17(1)(a), 18(1)(d)	Withhold the two bulleted items listed as “recommendation” and “recommended follow-up” pursuant to subsection 17(1)(a) of FOIP. Release remaining portions.
40 to 89	Presentation Slides	Withheld in full		19(1)(a), 19(1)(b), 19(1)(c)(i)	Release
90	Email Thread (December 4 to 7, 2023) Pages 1 of 3	Withheld in part	1 to 2	17(1)(a)	Release
			3	29(1)	Release
			4	17(1)(a)	Release
			5	29(1)	Release
			6	17(1)(a)	Release
			7	17(1)(a)	Release
91	Email Thread (December 4 to 7, 2023) Pages 2 of 3	Withheld in part	1 to 3	13(1)(b)	Release
			4 to 5	13(1)(c), 17(1)(a)	Release
			6	19(1)(a), 19(1)(b)	Release
			7 to 10	17(1)(a)	Release
93	Invoice page 1 of 5	Withheld in part	1	19(1)(b)	Release
			2	29(1)	Release
			3	19(1)(b)	Release
			4 to 5	29(1)	Release
			6	19(1)(b)	Release
94	Invoice page 2 of 5	Withheld in part	1 to 4	29(1)	Release severance numbers 1 and 3. Withhold severance numbers 2 and 4 pursuant to subsection 29(1) of FOIP.
			5 to 6	19(1)(b)	Release
			7	29(1)	Release

Page #	Record Description	Withheld in Full or in Part	Severance #	FOIP Exemption(s) Applied	Recommendation
95	Invoice page 3 of 5	Withheld in part	1 to 6	29(1)	Release severance numbers 1 and 3, 5 and 6. Withhold severance numbers 2 and 4 pursuant to subsection 29(1) of FOIP.
			7	19(1)(b)	Release
96	Invoice page 4 of 5	Withheld in part	1 to 2	19(1)(b)	Release
97	Invoice page 5 of 5	Withheld in part	1 to 2	19(1)(b)	Release
98	Invoice page 1 of 5	Withheld in part	1	19(1)(b)	Release
			2	29(1)	Release
			3	19(1)(b)	Release
			4 to 5	29(1)	Release
			6	19(1)(b)	Release
99	Invoice page 2 of 5	Withheld in part	1 to 4	29(1)	Release severance numbers 1 and 3. Withhold severance numbers 2 and 4 pursuant to subsection 29(1) of FOIP.
			5 to 6	19(1)(b)	Release
			7	29(1)	Release
100	Invoice page 3 of 5	Withheld in part	1 to 6	29(1)	Release severance numbers 1 and 3, 5 and 6. Withhold severance numbers 2 and 4 pursuant to subsection 29(1) of FOIP.
			7	19(1)(b)	Release
101	Invoice page 4 of 5	Withheld in part	1 to 2	19(1)(b)	Release
102	Invoice page 5 of 5	Withheld in part	1 to 2	19(1)(b)	Release
103	Invoice page 1 of 5	Withheld in part	1	19(1)(b)	Release
			2	29(1)	Release
			3	19(1)(b)	Release
			4 to 5	29(1)	Release
104	Invoice page 2 of 5	Withheld in part	1 to 2	29(1)	Release
			3 to 4	19(1)(b)	Release
			5	29(1)	Release
105	Invoice page 3 of 5	Withheld in part	1 to 4	29(1)	Release
			5	19(1)(b)	Release

Page #	Record Description	Withheld in Full or in Part	Severance #	FOIP Exemption(s) Applied	Recommendation
106	Invoice page 4 of 5	Withheld in part	1 to 2	19(1)(b)	Release
107	Invoice page 5 of 5	Withheld in part	1 to 2	19(1)(b)	Release
108	Invoice page 1 of 3	Withheld in part	1 to 2	19(1)(b)	Release
			3	29(1)	Release
			4 to 6	19(1)(b)	Release
			7 to 11	29(1)	Release
			12 to 15	19(1)(b)	Release
			16 to 18	29(1)	Release
			19 to 20	19(1)(b)	Release
			21 to 23	29(1)	Release
			24 to 27	19(1)(b)	Release
109	Invoice page 2 of 3	Withheld in part	1 to 2	19(1)(b)	Release
			3 to 5	29(1)	Release
			6 to 7	19(1)(b)	Release
			8 to 14	29(1)	Release
			15 to 16	19(1)(b)	Release
			17 to 19	29(1)	Release
			20 to 21	19(1)(b)	Release
			22 to 24	29(1)	Release
			25 to 28	19(1)(b)	Release
110	Invoice page 3 of 3	Withheld in part	1 to 2	19(1)(b)	Release
			3 to 6	29(1)	Release
			7 to 16	19(1)(b)	Release
111	Invoice page 1 of 3	Withheld in part	1 to 11	19(1)(b)	Release
112	Invoice page 2 of 3	Withheld in part	1 to 14	19(1)(b)	Release
113	Invoice page 3 of 3	Withheld in part	1 to 14	19(1)(b)	Release