



Office of the  
Saskatchewan Information  
and Privacy Commissioner

## **REVIEW REPORT 133-2024**

### **Ministry of Highways**

**June 26, 2024**

**Summary:** The Applicant submitted an access to information request to the Ministry of Highways (Highways). Highways issued a fee estimate of \$105.00. The Applicant requested a review of Highways' fee estimate. The Commissioner found Highways' \$105.00 fee estimate was reasonable and recommended that Highways continue processing the Applicant's access request if the Applicant pays the 50% deposit of \$52.50.

### **I BACKGROUND**

[1] On May 1, 2024, the Ministry of Highways (Highways) received an access to information request from the Applicant for the following records:

1. Ministry Pits – NW06-17-13-W2 – location 50.4042-103.7818 How much gravel was in the one month before and one month after Regina Bypass construction.
2. Ministry Pits – SW06-17-13-W2 – location 50.4186-103.7818 How much gravel was in the pit one month before and one month after Regina Bypass construction.
3. Contracts with 739203 Alberta Ltd, White Rock Venture and 1907835 Alberta Ltd for the Regina Bypass construction.

[2] On May 2, 2024, Highways issued a \$105.00 fee estimate to the Applicant advising that a deposit of \$52.50 would be required to proceed with processing the request.

- [3] On May 13, 2024, the Applicant requested my office to review Highways' fee estimate.
- [4] On May 13, 2024, my office asked Highways if it would consider revising or eliminating the estimate of costs. On May 15, 2024, Highways indicated that it was satisfied with the fee estimate provided to the Applicant.
- [5] As such, on May 15, 2024, my office notified the Applicant and Highways that my office would be undertaking a review of the fee estimate.
- [6] On June 12, 2024, Highways provided its submission to my office. The Applicant did not provide a submission.

## **II RECORDS AT ISSUE**

- [7] This review is about Highways fee estimate for the records requested by the Applicant; therefore, there are no records at issue.

## **III DISCUSSION OF THE ISSUES**

### **1. Do I have jurisdiction?**

- [8] Highways is a "government institution" as defined by subsections 2(1)(d)(i) of *The Freedom of Information and Protection of Privacy Act* (FOIP). As such, I have jurisdiction to conduct this review.

### **2. Was Highways' fee estimate reasonable?**

- [9] Subsections 9(1) and 9(2) of FOIP provide as follows:

**9(1)** An applicant who is given notice pursuant to clause 7(2)(a) is entitled to obtain access to the record on payment of the prescribed fee.

(2) Where the amount of fees to be paid by an applicant for access to records is greater than a prescribed amount, the head shall give the applicant a reasonable estimate of the amount, and the applicant shall not be required to pay an amount greater than the estimated amount.

[10] Subsection 9(2) of FOIP requires a government institution to provide a fee estimate where the cost for providing access to the records exceeds the prescribed amount of \$100 which is found in subsection 7(1) of *The Freedom of Information and Protection of Privacy Regulations* (FOIP Regulations).

[11] The *Guide to FOIP*, Chapter 3, “Access to Records,” (*Guide to FOIP*, Ch. 3) at page 72, indicates that FOIP provides for reasonable cost recovery associated with providing individuals access to records. A “reasonable fee estimate” is one that is proportionate to the work required on the part of the government institution to respond efficiently and effectively to an applicant’s request.

[12] There are generally three kinds of fees that can be included in a fee estimate:

1. Fees for searching for records;
2. Fees for preparing records; and
3. Fees for reproduction of records.

[13] I will assess each fee separately. As Highways did not quote a fee for reproduction, I will not include that fee in my review. Highways’ fee estimate, provided to the Applicant on May 2, 2024, is as follows:

	Type of Fee	Calculation of Fees	Total
1	Time required to search for records	3.5 hours x \$15.00/half hour	\$105.00
2	Time required to prepare records for disclosure	2 hours x \$15.00/half hour	\$60.00
3	Photocopies or computer printouts of Records	~ 50 pages x \$0.25/page	No fee – provided electronically
		Subtotal	\$165.00

4	<b>LESS:</b>	2 hours free x \$15.00/half hour	(\$60.00)
<b>Total amount of fees required to process access request</b>			<b>\$105.00</b>

*1. Fees for searching for records*

[14] Subsection 6(2) of the FOIP Regulations describes the fee formula government institutions can apply when estimating a fee for searching or preparing records. Subsection 6(2) of the FOIP Regulations provides as follows:

6(2) Where time in excess of two hours is spent in searching for a record requested by an applicant or in preparing it for disclosure, a fee of \$15 for each half-hour or portion of a half-hour of that excess time is payable at the time when access is given.

[15] Page 74 of the *Guide to FOIP*, Ch. 3, provides that fees for search time consists of every half hour of manual search time required to locate and identify responsive records. For example:

- Staff time involved with searching for records.
- Examining file indices, file plans or listing of records either on paper or electronic.
- Pulling paper files/specific paper records out of files.
- Reading through files to determine whether records are responsive.

[16] The *Guide to FOIP*, Ch. 3 at page 75, provides that search time **does not** include:

- Time spent to copy the records.
- Time spent going from office to office or off-site storage to look for records.
- Having someone review the results of the search.

[17] The *Guide to FOIP*, Ch. 3 at page 75, also provides that generally, the following has been applied:

- It should take an experienced employee 1 minute to visually scan 12 pages of paper or electronic records to determine responsiveness.

- It should take an experienced employee 5 minutes to search one regular file drawer for responsive file folders.
- It should take 3 minutes to search one active email account and transfer the results to a separate folder or drive.

[18] In my blog post, [\*3 Minutes for a Search\*](#), I have also stated that, as a rule of thumb, my office will accept that it takes an employee 3 minutes to search their email account for each search parameter.

[19] Based on Highways' submission, it calculated 3 minutes to conduct a search of each search parameter it identified for each of the electronic locations (locations of data searches of its Geographic Information System (GIS), digital files and email accounts). For example, the data search in GIS will require Highways to search in four digital locations within that system, and Highways has identified five search parameters/keywords to locate responsive records. Based on these figures, Highways estimated that each data search in the GIS will take 15 minutes (5 search parameters/keywords x 3 minutes/GIS digital location). To search all four locations in GIS, then, would take 60 minutes (15 minutes x 4 locations). Highways used similar calculations to estimate its search time for its digital files and email accounts.

[20] Highways' calculated fee estimate of 3.5 hours to search and \$105.00 is based on the following:

Search Effort:

Paper Files – two file cabinet drawers

5 minutes to scan a drawer – 10 minutes = .5 hour

Digital/Email Files – nine locations, five search parameters for each location

3 minutes per search parameter per location – 135 minutes = 2.5 hour

Scan for responsiveness – 400 pages

1 minute to scan 12 pages – 33.3 minutes = .5 hour

[21] Based on my office's standards, I calculate the estimate for the fees for searching for records as follows:

Data Search – 3 search parameters x 3 minutes per search parameter of data search in Geographic Information System x 4 locations = 36 minutes

Paper files – 2 file cabinet drawers x 5 minutes/regular file drawer = 10 minutes

Electronic files – 5 search parameters x 3 minutes/email account or digital file x 9 locations (3 email accounts and 6 digital files) = 135 minutes

400 pages x 1 minute to review 12 pages of records = 33.33 minutes

Total time = 214.33 minutes/60 minutes = 3.57 hours

3.57 hours x \$15/half hour (or \$30/hour) = \$107.10

[22] I calculate the fee for search to be \$107.10.

## ***2. Fees for preparing records***

[23] As noted earlier, subsection 6(2) of the FOIP Regulations describes the fee formula government institutions can apply when estimating a fee for preparing records. That fee formula is \$15 for every half hour of preparation that is in excess of two hours for search or preparation.

[24] The *Guide to FOIP*, Ch. 3 at page 75, provides that preparation includes time spent preparing the record for disclosure including:

- Time anticipated to be spent physically severing exempt information from records.

[25] The *Guide to FOIP*, Ch. 3 at page 76, provides that preparation time **does not** include:

- Deciding whether to claim an exemption.
- Identifying records requiring severing.
- Identifying and preparing records requiring third party notice.
- Packaging records for shipment.
- Transporting records to the mailroom or arranging for courier service.

- Time spent by a computer compiling and printing information.
- Assembling information and proofing data.
- Photocopying.
- Preparing an index of records.

[26] The *Guide to FOIP*, Ch. 3 at page 76, also provides that the test related to reasonable time spent on preparation is that it should generally take an experienced employee two minutes per page to physically sever.

[27] Highways submission estimated that of the 400 pages of records to scan for responsiveness, approximately 50 pages would be responsive to the Applicant's request. Highways estimated its 2 hours for preparing the record and the \$60 fee based on the following:

Preparation:  
Record Preparation – 50 pages  
2 minutes per page for severing – 100 minutes = 2 hours

[28] Based on my office's standards, the time for severing only considers the number of pages physically requiring severing, which Highways estimated to be 50 pages. I calculate the estimate for the fees for preparing the records, based on the total number of 50 pages, as follows:

$50 \text{ pages of records} \times 2 \text{ minutes per page} / 60 \text{ minutes} = 1.67 \text{ hours}$

$1.67 \text{ hours} \times \$15/\text{each half hour (or } \$30 \text{ per hour)} = \$50.00$

[29] I calculate the fee for preparation to be \$50.00.

***Total fees***

[30] In summary, I calculate my estimate of total fees to be:

$\$107.10 \text{ (search)} + \$50.00 \text{ (preparation)} = \$157.10$

$\$157.10 - \text{two hour search/preparation time } (-\$60.00) = \$97.10$

[31] Based on what I calculate, Highways' fee estimate of \$105.00 is slightly higher than my calculation of \$97.10. It appears that what may account for the difference is that Highways rounded up its preparation time to 2 hours (versus the 1.67 hours I calculated). In [Review Report 158-2018](#) concerning the University of Regina, I mentioned at paragraph [31] that a local authority can charge \$15 for each half hour or portion of a half hour. This holds true for government institutions as well pursuant to subsection 6(2) of the FOIP Regulations. If I accept this premise in this matter, then I find that Highways' fee estimate of \$105.00 is reasonable.

[32] I recommend that Highways continue processing the Applicant's access to information request, if the Applicant pays the 50% deposit of \$52.50.

#### **IV FINDINGS**

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

[34] I find Highways' fee estimate of \$105.00 is reasonable.

#### **V RECOMMENDATION**

[35] I recommend that Highways continue processing the Applicant's access to information request, if the Applicant pays the 50% deposit of \$52.50.

Dated at Regina, in the Province of Saskatchewan, this 26th day of June, 2024.

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