



REVIEW REPORT 127-2020

Saskatchewan Power Corporation

September 21, 2021

Summary:

Saskatchewan Power Corporation (SaskPower) received an access to information request from the Applicant. SaskPower responded to the Applicant denying access to portions of the record pursuant to subsections 17(1)(b)(i), (d) and 29(1) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Applicant requested a review from the Commissioner of SaskPower's application of subsections 17(1)(b)(i), (d) and 29(1) of FOIP, and of its search efforts. The Commissioner found that SaskPower failed to meet its duty to assist pursuant to subsection 5.1(1) of FOIP and did not comply with section 8 of FOIP. The Commissioner found that SaskPower appropriately applied subsection 17(1)(b)(i) of FOIP to the record, it applied subsection 29(1) of FOIP appropriately to some portions of the record, but not to other portions of the record, and that subsection 27(1) of *The Health Information Protection Act* (HIPA) applied to some information in the record. The Commissioner also found that SaskPower conducted a reasonable search. The Commissioner recommended SaskPower review its procedures for preparing records for applicants and for his office, and going forward meet its obligations under subsection 5.1(1) of FOIP and section 8 of FOIP. The Commissioner also recommended that SaskPower continue to withhold portions of the record where subsection 29(1) of FOIP and subsection 27(1) of HIPA were found to apply and release the rest. Lastly, the Commissioner recommended that SaskPower take no further action regarding search.

I BACKGROUND

[1] On October 7, 2019, Saskatchewan Power Corporation (SaskPower) received an access to information request from the Applicant, requesting the following information:

All E-mails to & from [Manager, Meter Reading Central, Saskatoon] with my name in it [Applicant's name]. Also, all E-mails with my name in it [Applicant's name] to and from all the following: [Director, Metering Services], [Supervisor, Meter Reading, North Battleford], [Supervisor, Meter Reading, Saskatoon], [Meter Reader, Saskatoon], [Manager, Health & Wellness Services], [Lead, Health & Wellness Services Specialist/ HR Safety], [Manager, Health & Wellness Services], [Corporate Physician], [Specialist, Employee Relations], [Consultant, Human Resources & Safety]. I would also request text message with my name in it, on all of the above if possible. April 1st/2018.

- [2] The Applicant revised the scope of their access to information request three times between October 7, 2019 and October 24, 2019. Finally, their access to information request was for the following information:

I would like to request all e-mails to and from [Manager, Meter Reading Central, Saskatoon] with my name in it [Applicant's name]. Also, all e-mails with my name in it [Applicant's name] to and from all of the following: [Director, Metering Services], [Supervisor, Meter Reading, North Battleford], [Meter Reader, Saskatoon] and [Manager, Meter Reading, North] [maiden name and personal information about them]. As before, I would also request all text messages with my name in it, on all the above, if possible. The search dates to include are from April 1st to present.

- [3] During October 24, 2019 to November 15, 2019, SaskPower worked with the Applicant in order to provide a fee estimate. The Applicant paid the 50% deposit of the fee estimate.
- [4] On December 3, 2019, SaskPower responded to the Applicant denying access to portions of the requested records pursuant to subsections 17(1)(b)(i), (d) and 29(1) of *The Freedom of Information and Protection of Privacy Act* (FOIP).
- [5] On May 21, 2020, my office received an email from the Applicant requesting a review of the exemptions and questioning the search efforts of SaskPower. The Applicant believed that SaskPower did not locate and provide all responsive records.
- [6] On June 17, 2020, my office provided notification to the Applicant and SaskPower of my office's intent to undertake a review.

[7] On September 18, 2020, the Applicant provided their submission to my office and on October 28, 2020, SaskPower provided its submission to my office.

II RECORDS AT ISSUE

[8] SaskPower responded to the Applicant with 533 pages, out of which 382 pages were released in full with the other 151 pages withheld in full or in part, pursuant to subsections 17(1)(b)(i), (d) and 29(1) of FOIP. Therefore, only portions of 151 pages are at issue for this review. For details, see Appendix A of this Report.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[9] SaskPower 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* (FOIP Regulations). SaskPower is also a “trustee” pursuant to subsection 2(t)(i) of *The Health Information Protection Act* (HIPA) for purposes of personal health information in its custody or control. Therefore, I have jurisdiction to conduct this review.

2. Did SaskPower meet its obligations under subsection 5.1(1) and section 8 of FOIP when it prepared the records for the Applicant and my office?

[10] In its submission, SaskPower stated that it properly gave access to as much of the records as could reasonably be severed without disclosing the information to which the Applicant was refused access. SaskPower asserted that it did a line-by-line review of each page and applied severing where appropriate.

[11] However, during the review it became apparent that there were issues with how SaskPower prepared the records for the Applicant and for my office, such as *severing* was

inconsistently applied to pages and *white space redaction* was used, leaving it unclear as to what was removed for the Applicant and for my office.

[12] My office had to clarify multiple pages of the record with SaskPower to accurately identify, paginate and analyze portions of the record, where white space redactions were applied and the page numbers did not match. Instead of reviewing and withholding portions of those pages of the record and releasing the remainder, some of the pages were withheld in their entirety, when information was clearly releasable and had been released on other similar pages of the record. For example, the headers and footers of emails were inconsistently released.

[13] Both the issues of white space redacting and inconsistent severing engage both subsection 5.1(1) of FOIP, and section 8 of FOIP, which outline specific obligations on SaskPower in terms of its duty to assist and releasing as much of the record as possible.

[14] Subsection 5.1(1) of FOIP outlines a government institution's duty to assist an applicant and provides:

5.1(1) Subject to this Act and the regulations, a government institution shall respond to a written request for access openly, accurately and completely.

...

[15] Subsection 5.1(1) of FOIP requires a government institution to respond to an applicant's written access to information request openly, accurately and completely. This means that government institutions should make reasonable effort to not only identify and seek out records responsive to an applicant's access to information request, but to explain the steps in the process and seek any necessary clarification on the nature or scope of the request within the legislated timeframe.

[16] My office's *Guide to FOIP, Chapter 3: Access to Records*, updated June 29, 2021 (Guide to FOIP, Chapter 3), addresses the duty to assist starting at page 14. During the review of the pages of the record at issue, my office noted that it appeared that SaskPower did not respond accurately and completely to the Applicant.

- [17] *Accurately* means careful; precise; lacking errors, i.e. the government institution must understand what the applicant is actually looking for including reviewing the records line-by-line before a decision is made with respect to what, if any, exemptions apply.
- [18] *Completely* means having all its parts; entire; finished; including every item or element; without omissions or deficiencies; not lacking in any element or particular i.e. the information from a government institution must be comprehensive and not leave any gaps in its response to an applicant's access to information request.
- [19] 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.
- [20] My office's Guide to FOIP, Chapter 3 addresses *severability* starting at page 44. Severability is the principle described in section 8 of FOIP requiring that information be disclosed if it does not contain, or if it can be reasonably severed from, other information that the head of a government institution is authorized or obligated to refuse to disclose under the Act.
- [21] In order to comply with section 8 of FOIP, a line-by-line analysis of the record at issue is required to determine which exemptions apply to which portions of the records. The government institution is required to sever those portions that may qualify for a mandatory or discretionary exemption and release the balance of the record to the applicant. Upon review, it appeared as though SaskPower was inconsistent with its approach in severing in this case.
- [22] My office's Guide to FOIP, Chapter 3 addresses white space redaction starting at page 46. White space redaction is where software removes the content of a record in such a way that it renders the redacted content indistinguishable from the blank background of the document. As also discussed in my office's Review Report 025-2020, white space

redaction lacks specificity because when reviewing the responsive pages, an applicant cannot tell if the white space accounts for a missing line, paragraph, table, image etc. or if the page was naturally left blank. The preference is black-out or grey-out redacting, which allows sufficient visual context to indicate the length and general nature of the information (e.g. chart, column, list, sentence or paragraph).

[23] By inconsistently severing records and by using white space redactions, SaskPower did not respond to the Applicant accurately or completely or meet its obligations to sever the record in compliance with section 8 of FOIP. Therefore, I find that SaskPower failed to meet its duty to assist pursuant to subsection 5.1(1) of FOIP and did not comply with section 8 of FOIP.

[24] Going forward, I encourage SaskPower to provide my office with a redacted red-lined version of the record that is paginated consistent with the version provided to the Applicant. This allows my office to not only see what has been withheld, but also the exemption that was applied to it, without having to look at multiple versions of the record where the page numbers are not consistent. I also recommend that SaskPower use black-out or grey-out redacting when processing records. For assistance with severing, SaskPower can review my office's webinar: *Modern Age Severing Made A Lot Easier*, available at www.oipc.sk.ca.

3. Did SaskPower properly apply subsection 17(1)(b)(i) of FOIP?

[25] SaskPower applied subsection 17(1)(b)(i) of FOIP, in part or in full to 81 pages of the record. All of these 81 pages are emails.

[26] Subsection 17(1)(b)(i) of FOIP provides:

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

...
(b) consultations or deliberations involving:

- (i) officers or employees of a government institution;
- ...

[27] My office uses the following two-part test to determine if subsection 17(1)(b)(i) of FOIP applies:

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

(IPC *Guide to FOIP, Chapter 4: Exemptions from the Right of Access*, updated April 30, 2021, (Guide to FOIP, Chapter 4), pp. 131-136)

1. Does the record contain consultations or deliberations?

[28] A *consultation* can be defined as follows:

- the action of consulting or taking counsel together: deliberation, conference;
- a conference in which the parties consult and deliberate.

A consultation can occur when the views of one or more officers or employees of a government institution are sought as to the appropriateness of a particular proposal or suggested action. It can include consultations about prospective future actions and outcomes in response to a developing situation. It can also include past courses of action. For example, where an employer is considering what to do with an employee in the future, what has been done in the past can be summarized and would qualify as part of the consultation or deliberation.

(Guide to FOIP, p. 132)

[29] A *deliberation* can be defined as follows:

- the action of deliberating (to deliberate: to weigh in mind; to consider carefully with a view to a decision; to think over); careful consideration with a view to a decision;
- the consideration and discussions of the reasons for and against a measure by a number of employees/ supervisors.

A deliberation can occur when there is a discussion or consideration of the reasons for or against an action. It can refer to discussions conducted with a view towards making a decision.

(Guide to FOIP, pp. 132-133)

[30] In its submission, SaskPower stated:

The redactions all relate to the views of one or more employees of SaskPower as to the appropriateness of a particular proposal or suggested action. In particular, the emails discuss past measures with a particular employee (the Applicant). Records in this category meet the requirements to be designated a “consultation.” Further emails discuss future courses of action with a particular employee (the Applicant) are all with a view towards making a decision regarding the employee (the Applicant). These records meet the requirements to be designated a “deliberation.” The first part of the test is therefore met.

All emails are exclusively between SaskPower employees which meets the second part of the test for section 17(1)(b)(i).

[31] Upon review of these pages, it appears portions of the emails were regarding: the functioning and challenges of the meter reader team in Kindersley, Saskatchewan; the management of an employee [the Applicant]; discussions regarding the work matters or issues that a Manager or Supervisor experienced with that employee; discussions regarding their current or future work situation; and steps to accommodate the same. All the redactions related to views of one or more employees of SaskPower as to the appropriateness of a particular proposal or suggested action. Other emails discuss the ongoing concerns regarding SaskPower’s assets, discussions and decisions regarding its management, SaskPower’s specific meter reading routes, and recurring concerns or status and steps to improve effective management.

[32] My office noted, that all of the emails contain consultations or deliberations regarding SaskPower’s work product, employee management, asset management, efficiency issues, possible or proposed solutions and decisions to address those issues. Therefore the first part of the test for subsection 17(1)(b)(i) of FOIP is met.

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

- [33] *Officers or employees of a government institution means* an individual employed by a government institution and includes an individual retained under a contract to perform services for the government institution.
- [34] When providing a submission to my office, the government institution should identify the individuals involved in the consultations or deliberations, include the job title of each, list organization affiliation and clarification as to each individuals role in the decision making process. SaskPower did not provide this information with their submission to our office. However, upon request from my office during the review, SaskPower provided a copy of the organization chart for the “Metering Services – Distribution and Customer Services” division dated July 1, 2019. It also provided a list of job titles of each individual listed in the scope of the Applicant’s access to information request.
- [35] Upon review of these pages, my office noted that all the emails were exchanged between SaskPower’s managers, Human Resources (HR) team, Health, Wellness and Safety team and other SaskPower employees and appear to involve the appropriate employees within SaskPower. As such the consultations and deliberations involve officers and employees of a government institution. Therefore, the second part of the test for subsection 17(1)(b)(i) of FOIP is met.
- [36] In conclusion, as both parts of the test are met, I find that SaskPower appropriately applied subsection 17(1)(b)(i) of FOIP to the emails. For details, see Appendix A of this Report.
- [37] SaskPower also applied subsections 17(1)(d) and 29(1) of FOIP to some portions of these emails. However, as I have found subsection 17(1)(b)(i) of FOIP applies, there is no need to consider these exemptions. For details, see Appendix A of this Report.

4. Did SaskPower properly apply subsection 29(1) of FOIP?

- [38] There are 70 pages of the record remaining where SaskPower applied subsection 29(1) of FOIP, in full or in part. These 70 pages appear to constitute emails and time statements.

[39] Subsection 29(1) of FOIP protects the privacy of individuals whose personal information may be contained within records responsive to an access to information request made by someone else. Subsection 29(1) of FOIP requires a government institution to have the consent of the individual whose personal information is in the record prior to disclosing it unless it has authority to disclose without consent pursuant to subsection 29(2) or section 30 of FOIP. Subsection 29(1) of FOIP provides:

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

[40] When dealing with information in a record that appears to be personal information, the first step is to confirm that the information indeed qualifies as “personal information” as defined in subsection 24(1) of FOIP.

[41] In its submission to my office, SaskPower did not specify which subsections of subsection 24(1) of FOIP are engaged in the record. However, upon review of the record, it appears that subsections 24(1)(b), (d) and (k)(i) of FOIP are engaged. Subsections 24(1)(b), (d) and (k)(i) of FOIP provide:

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:

...

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

...

(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*;

...

(k) the name of the individual where:

(i) it appears with other personal information that relates to the individual; or

...

[42] While subsection 24(1) of FOIP provides examples of the type of information that qualifies as personal information, this is not an exhaustive list. There may be other information that qualifies as personal information, if the following two elements exist:

1. Is there an identifiable individual? and
2. Is the information personal in nature?

[43] In its submission, SaskPower explained that the pages on which subsection 29(1) of FOIP was applied, were either emails between SaskPower employees, employee work schedules or SAP [Systems Applications and Products in Data Processing] attendance time statements. SaskPower also explained that it applied subsection 29(1) of FOIP to portions of the record, which reveal an individual's name in the context of their work performance as employees.

[44] Upon review of these 70 pages, it appears many of these pages are emails between SaskPower employees. These emails pertain to employees other than the Applicant, regarding those employees' vacation requests, overtime requests and management issues. For example, pages 204 to 205 are an email chain regarding the vacation leave of another employee. Such information constitutes employment history of those employees and would qualify as personal information as defined in subsection 24(1)(b) of FOIP and I recommend it continue to be withheld pursuant to subsection 29(1) of FOIP. For details, see Appendix A of this Report.

[45] SaskPower stated that the remaining pages, contained SAP attendance time statements. My office noted that pages 171 to 196, 199 to 200, 202 to 203, 209, 215 to 218, 220 to 223 and 227 to 228, were all time statements of employees, other than the Applicant. Upon review of these pages, my office noted that the data elements present in these time statements were employee names, employee numbers, employee handwritten signatures, employee attendance/ absences, standard time worked and overtime hours, etc. The column "attendance/ absence" listed other data elements such as regular time, sick time, family day, personal day and leave without pay, for each employee.

- [46] My office noticed that these SAP time statements were identical to the time statements provided by SaskPower to the same Applicant in my Review Report 128-2020. Therefore, I need to adopt the same analysis from my Review Report 128-2020, where it was determined that the employee number is personal information as defined in subsection 24(1)(d) of FOIP and employee names and employee handwritten signatures are not personal information. It was also determined that HIPA was engaged in that case and there was personal health information (regarding sick leave) involved pursuant to subsection 2(m)(i) of HIPA, which must be withheld pursuant to subsection 27(1) of HIPA.
- [47] However, as explained in my Review Report 128-2020, SaskPower had only redacted employee names, employee numbers and employee handwritten signatures in these SAP time statements. SaskPower had already released data elements such as employees' attendance/ absence, standard time worked, overtime hours, sick time, family day, personal day and leave without pay. As such, if it released the names and handwritten signatures of the employees in that case, the released personal information and personal health information would become identifiable. In that case, I recommended that employee names and handwritten signatures continue to be withheld for this reason. For SaskPower to be consistent in its approach, in responding to the same Applicant as Review Report 128-2020, I recommend that it comply with the same format of redactions and continue to withhold the employee names, employee numbers and employee handwritten signatures and release the remaining portions of these SAP time statements.
- [48] During the review of these SAP time statements, it appeared that as a result of inconsistency in preparing the record, SaskPower released pages 220 to 223 regarding one employee (LG) in full to the Applicant. This may lead to a potential privacy breach. Therefore, I recommend SaskPower notify the affected employee and work with my office to address this potential privacy breach.
- [49] My office also noted that pages 197 to 198, 201, 204 to 205, 206 to 207, 208, 210 to 214, 219, 224, 225 to 226, 229, 230 to 231 and 233, were all emails where SaskPower withheld these pages in full with white space redaction. The email headers and footers on these pages contain the contact information for employees of SaskPower. In my office's Review

Reports LA-2011-001, F-2006-004 and 026-2019, it was found that email headers and footers containing the senders and receivers business card information do not qualify as personal information. As such, the email headers and footers in this case, would not be considered personal information pursuant to subsection 24(1) of FOIP. Therefore, SaskPower should release these to the Applicant.

[50] My office further noted that pages 275 and 448 were work schedules of three employees, one of them being the Applicant. SaskPower released the information pertaining to the Applicant, but withheld the portions regarding the other two SaskPower employees. In my office's Review Reports 128-2020, 381-2019, 082-2017 and LA-2012-002, it was found that the name of employees and the shifts or hours they worked would not be personal information as defined in subsection 24(1)(b) of FOIP. My office's Review Report LA-2012-002 also referred to the Supreme Court of Canada's decision *Dagg v. Canada (Minister of Finance)*, [1997] 2 SCR 403, which concluded that hours of work pertain more to the job description of an individual than personal information. Therefore, I find that SaskPower did not apply subsection 29(1) of FOIP appropriately to this information and should release this information to the Applicant.

[51] My office also noted that some information withheld on one page of the record (page 281) appears to be an email that the Applicant sent to their supervisor requesting overtime. This is the employment history of the Applicant therefore, it is the Applicant's personal information pursuant to subsection 24(1)(b) of FOIP. Subsection 31(1) of FOIP provides that individuals have a right to have access to their own personal information contained in a record. Therefore, I find that SaskPower did not appropriately apply subsection 29(1) of FOIP to that portion of the record. I recommend SaskPower release this information on page 281 to the Applicant.

[52] In conclusion, I find that there is personal information involved as defined in subsections 24(1)(b), (d) and (k)(i) of FOIP on some pages of the record. Hence, I find that SaskPower properly applied subsection 29(1) of FOIP, to those portions of the record. However, I also find that some information withheld on some pages of the record does not constitute personal information as defined in subsection 24(1) of FOIP. Therefore, I find that

SaskPower did not appropriately apply subsection 29(1) of FOIP to those portions of the record. I also find that there is personal health information involved pursuant to subsection 2(m)(i) of HIPA, which must be withheld pursuant to subsection 27(1) of HIPA.

[53] I recommend that SaskPower continue to withhold some portions of the record where it applied subsection 29(1) of FOIP appropriately and release the remaining portions as outlined above. For details, see Appendix A of this Report.

5. Did SaskPower conduct a reasonable search for records?

[54] During the initial correspondence with my office, the Applicant had requested a review of SaskPower's search efforts, advising that they did not believe that SaskPower had located and provided them with all the responsive records. Therefore, I will review if SaskPower conducted a reasonable search.

[55] Section 5 of FOIP provides as follows:

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

[56] Section 5 of FOIP is clear that access to records must be granted if they are in the possession or under the control of the government institution subject to any exemptions that may apply pursuant to FOIP.

[57] If a government institution indicates that records do not exist, an applicant may request my office conduct a review of the government institution's search efforts. FOIP does not require a government institution to prove with absolute certainty that records do not exist, but it must demonstrate that it has conducted a reasonable search to locate the records.

[58] A *reasonable search* is one in which an employee, experienced in the subject matter, expends a reasonable effort to locate records reasonably related to the access to information request. A reasonable effort is the level of effort you would expect of any fair, sensible

person searching areas where records are likely to be stored. What is reasonable depends on the request and related circumstances. Examples of information to support its search efforts that government institutions can provide to my office include the following:

- For personal information requests - explain how the individual is involved with the government institution (i.e. client, employee, former employee etc.), and why certain departments/divisions/branches were included in the search.
- For general requests - tie the subject matter of the request to the departments/divisions/branches included in the search. In other words, explain why certain areas were searched and not others.
- Identify the employee(s) involved in the search and how the employee(s) is experienced in the subject matter.
- Explain how the records management system is organized (both paper & electronic) in the departments/divisions/branches included in the search.
- Describe how records are classified within the records management system. For example, are the records classified by:
 - alphabet
 - year
 - function
 - subject
- Consider providing a copy of your organization's record schedule and screen shots of the electronic directory (folders & subfolders);
- If the record has been destroyed, provide copies of record schedules and/or destruction certificates;
- Explain how you have considered records stored off-site;
- Explain how records that may be in the possession of a third party but in the government institution's control have been searched such as a contractor or information management service provider.
- Explain how a search of mobile electronic devices was conducted (i.e. laptops, smart phones, cell phones, tablets).
- Explain which folders within the records management system were searched and how these folders link back to the subject matter requested. For electronic folders – indicate what key terms were used to search if applicable.

- Indicate the calendar dates each employee searched.
- Indicate how long the search took for each employee.
- Indicate what the results were for each employee's search.
- Consider having the employee that is searching provide affidavit to support the position that no record exists or to support the details provided. For more on this, see the IPC resource, Using Affidavits in a Review with the IPC available on the IPC website.

(IPC Guide to FOIP, Chapter 3: Access to Records, updated: June 29, 2021, (Guide to FOIP), pp. 9-10).

[59] The preceding list is intended to be a guide. Each case will require different search strategies and details depending on the records requested.

[60] In its submission to my office, SaskPower explained that it has established a process to handle searching for records more efficiently. It explained:

Each Vice-President designates a Business Unit Representative (“BU Rep”) as a point of contact for each Business Unit. The BU Rep would have a better knowledge of which employees within the Business Unit would likely be in possession of records responsive to the Request for Information. Upon receipt of an access to information request by the Freedom of Information Coordinator (the “Coordinator”), the Coordinator reaches out to the BU Rep requesting they coordinate a search strategy and complete a spreadsheet on behalf of the Business Unit. The BU Rep is given a deadline within which to provide the Coordinator a completed search strategy spreadsheet encompassing the search undertaken by the Business Unit. If the search indicates that the time to search for the records would be greater than 6 hours, then an Estimate of Costs is prepared. If the search indicates that the time to search for the records would be less than 6 hours, the Business Unit is then asked to complete the search and provide the records to the Coordinator.

[61] In its submission, SaskPower explained the various steps that it took to communicate with the Applicant. It also kept the Applicant apprised of its procedure and took steps to accommodate the multiple changes that the Applicant made to the scope of their access to information request or advised the Applicant, where it could not accommodate the change to the scope.

[62] SaskPower further explained that it initially identified the final page count of responsive records as 1,050. This was done before October 16, 2019, based on which SaskPower provided a fee estimate to the Applicant. It appears that on October 23, 2019 and October 29, 2019, the Applicant modified the scope of their access to information request filed initially. During October 7, 2019 and October 30, 2019, SaskPower conducted its amended search, based on the Applicant's revised scope of their access to information request. In its submission, SaskPower also stated that it waived the second half of the fee estimate for the Applicant.

[63] SaskPower also listed dates and details of its email exchanges with its staff, to identify the responsive records and conduct a thorough search. The details of SaskPower's search can be summarized as follows:

- SaskPower's FOI coordinator contacted the HR FOI representative and HR employees named in the scope of the Applicant's access to information request;
- informed the named employees that they could only charge an applicant for the time it took to search for the records and not for the time spent in reviewing the records for duplicates etc.;
- requested estimated page count to include electronic and paper records;
- contacted the Manager, Cyber Security and Investigations and discussed search efforts involved in retrieving text messages from SaskPower's cellphones; and
- completed a search strategy.

[64] SaskPower provided a completed copy of its search strategy template to my office. My office noted that this template listed the following data elements:

1. Name of employee conducting search;
2. Department;
3. Date of search;
4. Search strategy;
5. Paper;
6. Electronic;
7. Were there any known records that could not be located?;
8. Off-site – indicate where; and
9. Time required to search.

[65] This document appears to be a comprehensive list of the completed search strategy in this case and captured the responses from each department efficiently. It appears that

SaskPower contacted each person named in the scope of the Applicant's access to information request and their departments such as Meter Reading managers, Human Resources, Health and Wellness and Security to conduct a search of its paper records, electronic records and text messages on SaskPower's cellphones. The document also shows that each person then responded with their search results of paper and electronic records respectively.

[66] At this point, I need to determine if the Applicant provided any evidence to support their assertion that SaskPower did not locate and provide them with all the responsive records. Upon review of the Applicant's submission, I do not find any helpful argument or evidence to prove their aforesaid assertion. In addition, some issues were raised that were not within the scope of this review. For example, concerns regarding the Applicant's privacy.

[67] I note that the Applicant submitted three access to information requests to SaskPower between October 7, 2019 and November 1, 2019. In their submission, the Applicant raised concern that there were records responsive to one access request that were not provided to them in response to the other two. However, upon review, the scope of the three access to information requests were all different, so would capture different records. It appears that SaskPower did provide some of the same responsive records in my Review Report 128-2020 and this report, such as the SAP time statements mentioned in paragraph [45] of this report.

[68] In Review Report 159-2019 at paragraph [16], I stated that applicants set the parameters of their search requests, so public bodies can conduct an adequate search of records. As such, there is some onus on an applicant to establish their basis for believing further records exist, such as by providing supporting evidence.

[69] Therefore, based on the search efforts provided by SaskPower, I find that SaskPower conducted a reasonable search to locate records requested in the Applicant's access to information request.

IV FINDINGS

- [70] I find that SaskPower failed to meet its duty to assist pursuant to subsection 5.1(1) of FOIP and did not comply with section 8 of FOIP.
- [71] I find that SaskPower appropriately applied subsection 17(1)(b)(i) of FOIP to the record. For details, see Appendix A of this Report.
- [72] I find that SaskPower appropriately applied subsection 29(1) to portions of the record. For details, see Appendix A of this Report.
- [73] I find that SaskPower did not appropriately apply subsection 29(1) to some portions of the record. For details, see Appendix A of this Report.
- [74] I find that HIPA applies when sick leave is tied to an employee name, which includes their handwritten signature.
- [75] I find that SaskPower conducted a reasonable search to locate records requested in the Applicant's access to information request.

V RECOMMENDATIONS

- [76] I recommend that SaskPower review its procedures for preparing records for applicants and for a review by my office and ensure that it is consistent with its obligations under subsection 5.1(1) of FOIP and section 8 of FOIP.
- [77] I recommend going forward SaskPower use black-out or grey-out severing when it applies redactions to a record.
- [78] I recommend that SaskPower continue to withhold records where it applied subsection 17(1)(b)(i) of FOIP. For details, see Appendix A of this Report.

[79] I recommend that SaskPower apply the same redactions to the SAP time statements, as in Review Report 128-2020.

[80] I recommend that SaskPower continue to withhold portions of records where subsection 29(1) of FOIP or subsection 27(1) of HIPA were found to apply and release the remaining portion of the records where subsection 29(1) of FOIP was found not to apply. For details, see Appendix A of this Report.

[81] I recommend that SaskPower take no further action with regard to its search efforts in this matter.

Dated at Regina, in the Province of Saskatchewan, this 21st day of September, 2021.

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

Appendix A

Page # Redacted version (as provided to the IPC)	Page # - Applicant's version	Description	Exemption (s) of FOIP SaskPower Applied	Withheld in Full or Part	Exemption found to Apply by the IPC
524	12 – 13	Email chain; subject – One last question - October 21, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
526 - 529	14 - 17	Email chain; subject – [Applicant's initials] - September 24 - 25, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
530	18	Email chain; subject – [Applicant's] phone – September 13, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
531	19 – 20	Email; subject – Letter from [Applicant] – September 12, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
539	27	Email chain; subject – [Applicant's name] – September 11, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
560 - 561	48 – 49	Email chain; subject – [Applicant's full name] – August 16-19, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
562	50	Email; subject – [Applicant's name] – August 16, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
563	51	Page printed in error	-	-	-
564	52	Email; subject – [Applicant's name] and Privacy – August 16, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
576 - 578	64 – 66	Email; subject – check read – June 28, 2019	17(1)(b)(i)	Full	17(1)(b)(i) of FOIP, continue to withhold
580 - 581	68 – 69	Email chain; subject – [Applicant's initials] – June 24, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
586	74	Email chain; subject – [Applicant's initials]	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold

		medical – June 10, 2019			
591 – 593	79 – 81	Email chain; subject – Office guidelines – May 28, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
598	86	Email chain; subject – Re: Follow-up; date – May 28, 2019	29 (1)	Part	29(1) of FOIP, continue to withhold
599 – 600	87 – 88	Email chain; subject – [Applicant’s initials] medical – May 24, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
602 – 603	90 – 91	Email; subject – FYI [Applicant’s initials] – May 22, 2019	17(1)(b)(i)	Part	17(1)(b)(i) of FOIP, continue to withhold
604	92	Email chain; subject – Working in Kindersley – May 22, 2019	29 (1)	Part	29(1) of FOIP, continue to withhold
606	94	Email; subject – For Discussion after oilfield – May 05, 2019	29 (1)	Part	29(1) of FOIP, continue to withhold
608 – 609	96 – 97	Email chain; subject – FYI – [Applicant’s initials]	17(1)(b)(i); 17(1)(d) and 29 (1)	Part	17(1)(b)(i) of FOIP, continue to withhold
610, 612	98, 100	Email chain; subject – [Applicant’s initials] Absence from Work – April 25 – 28, 2019	17(1)(b)(i); 17(1)(d) and 29 (1)	Part	17(1)(b)(i) of FOIP, continue to withhold
611	99	ISS screenshot	29 (1)	Part	29(1) of FOIP, continue to withhold
643 – 650	131 – 138	Email chain; subject – [Applicant’s name] – April 12 – 18, 2019	17(1)(b)(i); 17(1)(d) and 29 (1)	Part	17(1)(b)(i) of FOIP, continue to withhold
658 – 659	146 – 147	Email chain; subject – [Applicant’s initials] WR Letter Apr 2019.docx; [Applicant’s name] Formal Discussion April 2019.doc – April 15, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
664 – 665	152 – 153	Email chain; subject – [Applicant’s name] – April 11, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold

666 – 667	154 – 155	Email chain; subject – [Applicant’s name] and Need your help – date April 9 -11, 2019	17(1)(b)(i); 17(1)(d) and 29 (1)	Part	17(1)(b)(i) of FOIP, continue to withhold
671	159	Email; subject – [Applicant’s name] Documents and Game Day Standards – April 10, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
678	166	Email chain; subject – Confidential – please do not forward – April 10, 2019	17(1)(b)(i); 17(1)(d) and 29 (1)	Part	17(1)(b)(i) of FOIP, continue to withhold
679	167	Email chain; subject – Confidential – please do not forward – April 10, 2019	29(1)	Part	29(1) of FOIP, continue to withhold
680 - 681	168 – 169	Email chain; subject – Confidential – please do not forward – April 2-3, 2019	29(1)	Full	29(1) of FOIP, continue to withhold
682	170	Email chain; subject – Scan from PRN-NBS-016 – April 8, 2019; attachments - Time statements 2019.xlsx	29(1)	Full	29(1) of FOIP applies to one name only, continue to withhold; Release the remainder of the page
683 – 708	171 – 196	Attachment to the above email - Time statements	29(1)	Full	29(1) of FOIP and 27(1) of HIPA applies to employee name, employee number and signatures, continue to withhold; Release the remainder of the pages
709 – 710, 713, 718 - 719	197 – 198, 201, 206 - 207	Email chain; subject – RE: Route 6540; February 26 – 27, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages

711 – 712, 714 - 715	199 – 200, 202 - 203	Attachment to the above email – Time statements	29(1)	Full	29(1) of FOIP and 27(1) of HIPA applies to employee name, employee number and signatures, continue to withhold; Release the remainder of the pages
716 – 717	204 – 205	Email chain; subject – RE: vacation; January 23 – February 4, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages
720	208	Email chain; subject – RE: feb 28 th ; April 1, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages
721	209	Time statement	29(1)	Full	29(1) of FOIP and 27(1) of HIPA applies to employee name, employee number and signatures, continue to withhold; Release the remainder of the pages
722	210	Email chain; subject – [subject]; February 4, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages
723	211	Email chain; subject – [subject]; February 12, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the

					remainder of the pages
724	212	Email chain; subject – [subject]; February 14 – 15, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages
725	213	Email; subject – [subject]; April 3, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages
726	214	Email chain; subject – [subject]; February 28, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages
727 - 730	215 – 218	Time statements	29(1)	Full	29(1) of FOIP and 27(1) of HIPA applies to employee name, employee number and signatures, continue to withhold; Release the remainder of the pages
-	219	Email chain; subject – [subject]; December 11, 2018	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages
730-734	220 - 223	Time Statement – LG	Released	Full	Notify affected individual and report to IPC
734	224	Email chain; subject – [subject]; February 20, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold;

					Release the remainder of the pages
735 – 736	225 - 226	Email chain; subject – RE: e-mails; February 26 – 27, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages
737 – 738	227 – 228	Time statements	29(1)	Full	29(1) of FOIP and 27(1) of HIPA applies to employee name, employee number and signatures, continue to withhold; Release the remainder of the pages
739	229	Email; subject – [subject]; December 20, 2018	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages
740 – 741	230 - 231	Email chain; subject – [subject]; February 12 – 25, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages
743	233	Email chain; subject – [subject]; February 27, 2019	29(1)	Full	29(1) of FOIP applies to portions, continue to withhold; Release the remainder of the pages
764 – 765	254 – 255	Draft document	17(1)(b)(i) and 17(1)(d)	Full	17(1)(b)(i) of FOIP, continue to withhold
767	257	Email; subject – Investigative Script; March 15, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold

772, 773	262, 263	Email; subject – Summary of concerns – [Applicant’s initials];	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
774 – 776	264 – 266	Email with attachment; subject – Chronology – [Applicant’s initials]; March 1, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
777	267	Email chain; subject – Documents as requested; February 25, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
778	268	Email chain; subject – [Applicant’s name]; October 12, 2018	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
785	275	Work Schedule Sheet	29(1)	Part	Release information
787	281	Email chain; subject – RE: Jan.8-2 hrs OT from 4:40 to 6:30	29(1)	Full	Release information
797 – 798	286 – 287	Text messages	17(1)(b)(i) and 17(1)(d)	Full	17(1)(b)(i) of FOIP, continue to withhold
802 – 803	291 – 292	Email chain; subject – Route 015221 MM/QM/AM; January 10 – 11, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
804	293	Email; subject – [Applicant’s name]; January 11, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
805	294	Email; subject – Route 015221 MM/QM/AM; January 10, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
812	301	Email; subject – Follow up to text message; January 9, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
813, 814	302, 303	Email; subject – Plot route; January 9, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
829	318	Email; subject – Kindersley workload; December 7, 2018	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
956	445	Email chain; subject – Assistance for Kindersley due to	17(1)(b)(i); 17(1)(d) and 29 (1)	Part	17(1)(b)(i) of FOIP, continue to withhold

		Vacation and Staff Shortage; February 2, 2019 and July 22, 2019			
959	448	Work Schedule Sheet	29 (1)	Part	Release information
961	450	T&D Annual Routes	29 (1)	Full	29 (1) of FOIP, continue to withhold
976 - 983	Not provided in submission	Meeting cancellation; 6/26/2019; subject – Kindersley District; June 24, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold
984 – 985	Not provided with initial submission	Email chain; subject – Request for Action; June 19, 2019	29 (1)	Part	29(1) of FOIP, continue to withhold
996 - 997	146 - 147	Email chain; subject – Letter for [initials]; April 15, 2019	17(1)(b)(i) and 17(1)(d)	Part	17(1)(b)(i) of FOIP, continue to withhold