



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 023-2024

Prairie South School Division No. 210

April 18, 2024

Summary: The Applicant submitted an access to information request to Prairie South School Division No. 210 (School Division). The School Division issued a fee estimate of \$15,125. The Applicant requested a review of the School Division's fee estimate. During the early resolution process, the School Division issued a revised fee estimate of \$6,015. The Commissioner found the School Division's revised fee estimate to be reasonable. The Commissioner recommended that the School Division issue a revised fee estimate that does not include the \$20 application fee, for a total of \$5,995. The Commissioner also recommended that the School Division continue processing the request if the Applicant pays the 50% deposit of \$2,997.50. The Commissioner also suggested ways in which the Applicant and School Division could work together to possibly further reduce the fee estimate.

I BACKGROUND

[1] On June 22, 2023, Prairie South School Division No. 210 (School Division) received an access to information request from the Applicant for the following records for the time period January 1, 2014 to January 1, 2021:

All documents/emails/communications/letters/reports/texts, etc related to the new joint-use school in Moose Jaw AND Westheath.

[2] The School Division's submission indicates that on June 23, 2023, the Applicant provided the following clarification:

I realize that my request may seem broad, but I am specifically looking for mention of Westheath in documents/emails, etc., in relation to the joint-use school project. Moreover, while the time frame may also seem broad, from my investigations, I understand that whispers of a joint-use school may have started around 2014.

Therefore, if you wanted to concentrate your search on the word Westheath, that might be helpful.

[3] On July 17, 2023, the School Division issued a \$15,125 fee estimate to the Applicant advising that a deposit of \$7,542.50 would be required to proceed with processing the request.

[4] On February 2, 2024, the Applicant asked my office to review the School Division's fee estimate.

[5] On February 9, 2024, in an effort to find early resolution, my office emailed the School Division and asked if it would consider revising or eliminating the estimate of costs. On February 13, 2024, the School Division issued a revised fee estimate of \$6,015 that would require the Applicant to pay a deposit of \$2,988.

[6] On March 5, 2024, my office notified the Applicant and the School Division that my office would be undertaking a review of the revised fee estimate.

[7] On March 22, 2024, the Applicant provided their submission to my office. On April 3, 2024, the School Division provided its submission to my office.

II RECORDS AT ISSUE

[8] This review is about the School Division's 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?

[9] The School Division is a “local authority” pursuant to subsection 2(1)(f)(viii) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). Therefore, I find I have jurisdiction to undertake this review.

2. Was the School Division’s fee estimate reasonable?

[10] Subsections 9(1) and 9(2) of LA 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.

[11] Subsection 9(2) of LA FOIP requires a local authority 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 6(1) of *The Local Authority Freedom of Information and Protection of Privacy Regulations* (LA FOIP Regulations).

[12] The *Guide to LA FOIP*, Chapter 3, “Access to Records,” (*Guide to LA FOIP*, Ch. 3) at page 73, indicates that LA 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 local authority to respond efficiently and effectively to an applicant’s request.

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

1. Fees for searching records;
2. Fees for preparing records; and
3. Fees for reproducing records.

[14] I will assess each fee separately. This review will consider the School Division’s revised fee estimate which is as follows:

	Type of Fee	Calculation of Fees	Total
1	Application Fee	Pursuant to Section 5(1) LA FOIP Regulations	\$20.00
2	Time required to search for records	39 hours x \$30/hour	\$1,170.00
3	Time required to sever [sic] records	153.5 hours x \$30/hour	\$4,605.00
4	Reproduction of records	\$0.25/page x 1000 pages	\$250.00
4	LESS:	1 hour free x \$15.00/half hour Pursuant to Section 5(2) LA FOIP Regulations	(\$30.00)
Total amount of fees required to process access request			\$6,015.00

[15] While the School Division’s fee estimate lists the \$20 application fee, the Applicant has already paid it. This fee is not included in my analysis.

1. Fees for searching records

[16] Subsection 5(3) of the LA FOIP Regulations describes the fee formula local authorities can apply when estimating a fee for searching or preparing records. Subsection 5(3) of the LA FOIP Regulations provides as follows:

5(3) Where time in excess of one hour 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.

[17] Page 75 of the *Guide to LA 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.

[18] The *Guide to LA 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.

[19] The *Guide to LA 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.

[20] The School Division's submission provides the following regarding how it estimated the number of hours to search for the responsive records:

The search parameters did not specify any particular employees' emails, as such the search planned contains two parts:

1. The local authorities' IT department would perform a search of all employee emails using the key word "Westheath" – estimated to take approximately 12 hours.
2. Then the Head, or another PSSD [School Division] employee, would sort through the search results to determine if the record fit the search criteria and to eliminate duplicates – estimated to take approximately 27 hours.

In creating the time estimates for the search, the Head utilized a conservative figure of approximately 800 individual emails and estimated that the time required of IT staff to complete the initial email search would be 12 hours. In arriving at these figures, the Head considered:

1. The test previously performed by IT to help estimate the number of records:

- a. The Head connected with the IT department to search the email of one person saved on our server to identify an approximate number of emails with the key word provided by the Applicant within the relevant time period requested. The search results were 100 emails.
2. The understanding that employees will not send the same number of emails referencing the key term.
3. The local authority has approximately 1500 employees who have an employee email account.
4. The IT department has previously performed large searches of some employees' emails which have taken up a significant amount of their time to perform. One such search, utilized as a reference in the initial fee estimate provided, was performed with similar criteria, but with fewer employees included, and took approximately 8 hours to complete. Given this search would be for all employees, the Head estimated it would take approximately 12 hours to complete.

The local authority further estimated that a significant amount of time would need to be spent reviewing the search results. It is estimated that approximately 2 minutes would need to be spent reviewing each email string for the purpose of determining if it fits the search criteria or is otherwise a duplicate document. In coming to that figure, the Head considered the following:

1. "Westheath" is the name of a subdivision in Moose Jaw where the new joint-use school location has been selected, so likely will be utilized broadly throughout the division.
2. The individual emailing about this topic is likely to email one another, resulting in duplication and time requirement to identify duplication.
3. The joint-use school which is the topic of this search has been a massive project undertaken by the local authority over the last decade, which will likely result in many documents referencing the location being sent by employees.
4. The estimate of 800 emails does not take into account the estimated large number of documents included as attachments to emails.

[21] The School Division indicated that it would take IT 12 hours to search 1500 email accounts. Additionally, the School Division indicated that it would take two minutes to review each email thread to determine if the emails located by IT were responsive, for a total of 27 hours. The School Division estimated 800 emails in its submission for the preparation of records estimated an average of nine pages for each email thread. Based on the School

Division's test on one of the emails, they have estimated it would take two minutes to review nine pages of records. The School Division's total estimate for search is \$1,170.

[22] My office has indicated it should take three minutes to search an email account. My office has also provided a standard that it should take an experienced employee one minute to review 12 pages of records. Based on my office's standards, I calculate the estimate for the fees for searching for records as follows:

1500 email accounts x 3 minutes/email account / 60 minutes = 75 hours

800 emails x 9 pages/email thread = 7200 pages

7200 pages x 1 minute to review 12 pages of records / 60 minutes = 10 hours

75 hours + 10 hours = 85 hours

85 hours x \$15/half hour = \$2,550

[23] Based on the above, I calculate that the School Division's estimate for search should have been \$2,550.

2. Fees for preparing records

[24] As noted earlier, subsection 5(3) of the LA FOIP Regulations describes the fee formula local authorities 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 one hour for search or preparation.

[25] The *Guide to LA FOIP*, Ch. 3 at page 76, provides that preparation includes time spent preparing the record for disclosure including:

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

[26] The *Guide to LA FOIP*, Ch. 3 at page 77, 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.

[27] The *Guide to LA FOIP*, Ch. 3 at page 77, 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.

[28] In its submission, the School Division provided the following regarding its calculation for the fee estimate for the preparation of documents:

The local authority estimated that it would take 153.5 hours to prepare the documents. This was based from a test performed in which the Head redacted the contents of one email string (inclusive of attachments) which took approximately 23 minutes.

The Head estimated that approximately half of the originally identified email strings (400) may require redactions and applied the test results to that figure. In making this decision, the Head considered the following:

1. The Head anticipated significant redactions would be required with respect to personal information of employees as well as other possible exemptions.
2. Draft documents would likely be produced and shared between employees in several iterations, all of which may require severing for the purpose of disclosure.
3. Emails identified as being relevant were estimated to each contain an average of 9 pages due to the thread-type nature of emails and the anticipation that there would be a large number of attachments relating to this topic.
4. Given the *Guide to LA FOIP*, Chapter 3: Access to Records, suggests a figure of 2 minutes per page requiring redaction at page at page 76, the Head believed that

the test results of 23 minutes per an estimated average of 9 pages was not unreasonable given the complex nature of the documents anticipated to disclosed.

[29] As noted above, the School Division has estimated that each email thread, including attachments, to have on average 9 pages, and that about half of the 800 email threads may require redactions. Based on this, the School Division estimated that it would take 153.5 hours to prepare the documents. The School Division also indicated that while the *Guide to LA FOIP* provides that it should take 2 minutes per page to prepare the record, the School Division did a test on one email thread (inclusive of attachments) which took 23 minutes to review. This works out to about 2.56 minutes per page. Based on this, the School Division's estimate for preparation is \$4,605.

[30] Since the School Division estimates about half the records would require severing, I will also use that total, and so will consider severing on 3600 pages using my office's standard of two minutes per page to sever. I note there's a difference between my office's standard and what the School Division estimated, but the School Division's estimate does not account for pages that may take less than two minutes per page to sever. Therefore, my calculations are as follows:

3600 pages of records x 2 minutes per page / 60 minutes = 120 hours

120 hours x \$15/each half hour = \$3,600

[31] Based on the above, I find that the School Division's estimate for preparation should have been \$3,600.

3. Fees for reproduction of records

[32] The LA FOIP Regulations prescribes \$0.25 per page for photocopying or computer printouts.

[33] The School Division's submission provided the following regarding the reproduction of records:

The Head chose to include reproduction costs in the estimate at a flat rate of 1000 pages to encourage the applicant to elect a cheaper method of reproduction. The Local Authority noted that these costs would only be required if the applicant wished to have documents printed. In making this decision, the Head considered the following:

1. The Head recognizes that not all records would be the same number of pages, and the Applicant may not require physical reproduction of all records.
2. The reproduction fee estimate would be waived if electronic storage device supplied by Applicant.

[34] Based on what the School Division has outlined, I will also base my estimate on a flat rate of 1000 pages at \$0.25 per page for a total of \$250 for reproduction. As the School Division noted, if the Applicant chooses to receive records electronically, the School Division will waive this fee entirely.

Total fees

[35] In summary, I calculate my estimate of total fees based on 7200 pages to be:

$$\$2,550 \text{ (search)} + \$3,600 \text{ (preparation)} + \$250 \text{ (reproduction)} = \$6,400$$

$$\$6,400 - \text{one hour search/preparation time } (-\$30) = \$6,370$$

[36] Based on what I calculate, I find the School Division's fee estimate of \$6,025 to be reasonable. However, I note that that if you exclude the application fee, the School Division's fee estimate should have been \$5,995. The required deposit (50%) would then be \$2,997.50. I recommend that the School Division issue a revised fee estimate of \$5,995 to the Applicant and continue processing the request if the Applicant pays the 50% deposit of \$2,997.50.

[37] I add that the School Division intends to have its IT department search all email accounts, both active and inactive, of employees for the time period the Applicant has specified and using the reference term "Westhealth." It is unclear, though, if the Applicant is aware of the School Division's plan to search 1500 active and inactive employee email accounts. The School Division may have been able to determine a more representative sample by

advising the Applicant of this to see if the Applicant could, for example, narrow their request to emails involving only specific senders and recipients. Additionally, while the School Division based its estimate on a search of one employee email account, this was used to estimate the total 7200 number of pages of emails. The School Division could also consider a larger representative sample to more accurately estimate the total number of pages that could be responsive.

[38] As a best practice, where an estimate of costs is being issued, the public body should take steps to contact the applicant in an attempt to narrow the scope of the request to reduce work and costs ([Review Report 064 to 076-2016](#) and [Review Report 078-2016 to 091-2016](#)). In this matter, that would include advising the Applicant of factors including how many email accounts are included in the search strategy. This knowledge may assist the Applicant in revising or narrowing their request parameters. If the Applicant continues to have concerns with the fee estimate, the School Division should explore with the Applicant ways to further reduce costs.

IV FINDINGS

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

[40] I find the School Division's fee estimate to be reasonable.

V RECOMMENDATIONS

[41] I recommend that the School Division issue a revised fee estimate for a total of \$5,995.

[42] I recommend that the School Division continue processing the request if the Applicant pays the 50% deposit of \$2,997.50.

Dated at Regina, in the Province of Saskatchewan, this 18th day of April, 2024.

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