



REVIEW REPORT 212-2021

Rural Municipality of North Qu'Appelle No. 187

March 16, 2022

Summary: The Rural Municipality of North Qu'Appelle No. 187 received an access to information request from the Applicant. The Applicant did not believe the RM had located and provided all responsive records, so sought to have the Commissioner review the RM's search efforts. The Commissioner found the RM conducted a reasonable search for records and recommended it take no further action in this regard.

I BACKGROUND

[1] On June 10, 2021, the Rural Municipality of North Qu'Appelle No. 187 (RM) received an access to information request from the Applicant as follows:

I am requesting all records, associated with the posting, interviewing, salary as per the seasonal maintenance operator, job # [redacted] which was on SASKJOBS. Which I applied for. This would include, but not limited to, the decisions of the above job # [redacted] which I put my name in for.

[2] In correspondence dated August 11, 2021, the RM responded to the Applicant by providing responsive records and an index of records.

[3] On August 25, 2021, the Applicant asked my office to review the RM's search efforts as they believed the RM did not locate and provide all responsive records. The Applicant had applied for a position with the RM and believed the RM should have a documented record regarding its decision to not interview them.

[4] On August 31, 2021, my office provided notification to the Applicant and the RM of my office's intent to undertake a review of the RM's search efforts.

II RECORDS AT ISSUE

[5] As this is a review of the RM's search efforts, there are no records at issue.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[6] The RM is a "local authority" pursuant to subsection 2(f)(i) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). Therefore, I have jurisdiction to undertake this review.

2. Did the RM conduct a reasonable search for records?

[7] The RM claims that additional records do not exist. When my office conducts a review where the local authority has indicated records do not exist, my office will review the local authority's search efforts.

[8] Section 5 of LA 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 local authority.

[9] Section 5 of LA FOIP establishes a right of access by any person to records in the possession or control of a local authority, subject to limited and specific exemptions, which are set out in LA FOIP (*IPC Guide to LA FOIP*, Chapter 3, "Access to Records", updated June 29, 2021 [*Guide to LA FOIP*, Ch. 3], p. 4).

[10] The threshold that must be met is one of reasonableness. In terms of a local authority's search efforts, 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 a local authority can provide to my office that may support its search efforts include the following:

- For personal information requests – explain how the individual is involved with the local authority (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 explain 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 local authority'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 an affidavit to support the position that no record exists or to support the details provided. For more on this, see my office's resource, *Using Affidavits in a Review with the IPC*, available on my office's website.

(*Guide to LA FOIP*, Ch. 3 pp. 8-9)

[11] The preceding list is intended to be a guide. Each case will require different search strategies and details depending on the records requested (*Guide to LA FOIP*, Ch. 3, p. 9).

[12] As previously mentioned, the Applicant applied for a position with the RM. The Applicant did not receive an interview for the position and believes the RM should have a documented record of its reasons for not interviewing them. The Applicant provided the following statement:

This is my submission to 212-2121.

- RM meeting dated March 23, 2021 agenda 1 (c). Seasonal Works Employee motion 21-153 RM council approved 2 worker positions. Refer to attached minutes for complete wording of the motion. I applied for one of the 2 positions [date redacted].
- RM meeting dated April 13, 2021 agenda 3 (a). Rescind motion 21-153, new motion 21-178 resend and motion 21-170 RM council approve hiring 1

employee. Refer to attached minutes for complete wording. I applied for this position # [redacted] [date redacted]. Also note no job description only job description was included in the information from the RM dated [date redacted].

- The previous mower and grader operator did not return. The RM as stated was hiring for 2 positions and then only 1 position. I have the qualifications as mentioned in the posting.
- I was also a councillor with the Rm [sic] from [dates redacted]. I have a very good understanding of the RM as a whole.

[13] For its part, the RM responded as follows:

The RM placed an advertisement on the SaskJobs website for a Seasonal Maintenance Operator. Resumes were received in the RM office, and printed and placed in a folder at the reception desk. The applicant's email of May 4, 2021 was included in this file. On May 12, 2021, members of the Personnel Committee held a meeting to review resumes. The file was presented to Committee members during a closed session meeting, and verbal discussions of the candidates ensued. Committee members verbally short-listed candidates for the interview process. Verbal direction was provided to the Administrator to arrange interviews with candidates who were short-listed. The Applicant was not among the candidates chosen to be interviewed.

...

The Applicant requested all records relating to his personal information related to posting, interviewing and salary of the seasonal maintenance operator job posting. As there was no interview conducted for this Applicant, a record of personal information for an interview does not exist. As the Applicant is not an employee of the municipality, there is no personal record of salary related to the seasonal maintenance operator job. The job posting is a generic posting and is not interpreted by this Office to be personal information, however was included as reference. The decision on interviewing of candidates by Committee members was done verbally, and no record exists.

[14] The RM added it conducted a search of its file systems using as keywords the Applicant's name, "resume", "job opportunity" and "maintenance operator". This would be an appropriate search strategy given the type of records the Applicant sought.

[15] In [Review Report 159-2019](#) at paragraph [16], I stated it is the Applicant who sets the parameters of the public body's search. This is so public bodies can conduct an adequate search for records and seek clarification from the Applicant if necessary. If an Applicant believes a public body has not conducted an adequate search for records and that more

records should exist, then there is some onus on the Applicant to provide evidence to support their assertion.

[16] As previously mentioned, the standard here is one of reasonableness – what would a rational person conclude in the given circumstances. The Applicant believes more records should exist, but has not provided my office with evidence to support their belief that the RM discussed – and documented – its decision to not interview them. Rather, the Applicant has only speculated that such documentation should have occurred. I accept, however, that not all public bodies will document every discussion they have, nor is there a requirement in LA FOIP that they do so. As such, I find the RM’s response that it verbally discussed who would get interviewed, which is why further records do not exist in relation to the Applicant, is reasonable. Given this, as well as the RM’s description of its search efforts outlined at paragraph [14] of this Report, I find the RM conducted a reasonable search for records. I recommend it take no further action in this regard.

IV FINDING

[17] I find the RM conducted a reasonable search for records.

V RECOMMENDATION

[18] I recommend the RM take no further action with respect to its search efforts.

Dated at Regina, in the Province of Saskatchewan, this 16th day of March, 2022.

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