



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 220-2024

Rural Municipality of Buchanan No. 304

April 23, 2025

Summary:

The Applicant submitted an access to information request to the Rural Municipality of Buchanan No. 304 (RM) under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The RM responded by withholding portions of records pursuant to subsection 21(a) of LA FOIP and advising that some of the requested records do not exist. The Applicant requested a review of the RM's search efforts and application of subsection 21(a) of LA FOIP. The A/Commissioner found that the RM conducted a reasonable search for responsive records. However, in an effort to find resolution of this matter, it was recommended that, within 30 days of the issuance of this Report, the RM send to the Applicant the detailed financial statements. The A/Commissioner also found that the RM did not properly apply subsection 21(a) of LA FOIP and recommended it release the records to the Applicant, in full, within 30 days of the issuance of this Report.

I BACKGROUND

[1] On July 3, 2024, the Rural Municipality of Buchanan No. 304 (RM) received an access to information request from the Applicant, which included the timeframe for the records, as follows:

All monthly financials from 2020 to date. The same monthly financials that are suppose [sic] to be attached to every months [sic] minutes of meetings. May 2021 Minutes of Meeting.

[2] The RM provided my office with a copy of the receipt it issued to the Applicant on July 3, 2024, confirming that the Applicant paid the \$20 application fee.

[3] On July 16, 2024, the RM emailed a letter to the Applicant acknowledging receipt of their access to information request on July 3, 2024. The RM added it would provide a written response to the Applicant on or before August 2, 2024.

[4] On July 31, 2024, the RM emailed a letter to the Applicant stating:

Please find attached the minutes of the May 2021 regular Council meeting in response to your request.

In regard to your request for “monthly financials”, the RM requires more information to identify the requested records.

Section 6(3) of *The Local Authority Freedom of Information and Protection of Privacy Act...* provides that a local authority may request additional details when it is unable to identify the record requested...

Pursuant to section 6(3) of LA FOIP, please provide additional details regarding the financial documents you are requesting.

[5] The Applicant responded to the RM by email on the same day, stating:

I am requesting the monthly approved financials from every meeting minutes from January 2020 to date. In all your minutes of your regular meetings it states approved monthly financials, I would like a copy of all those financials.

[6] On August 27, 2024, the RM emailed the Applicant stating that they could pick up the requested records on August 30, 2024. The RM added it would require the Applicant to pay a total cost of \$139.60 before the RM would provide the records to them.

[7] The Applicant responded to the RM by email on August 29, 2024, agreeing to pay the requested fees. In its letter to the Applicant dated August 30, 2024, that accompanied the records, the RM stated:

We are writing in response to your Access to Information clarification request dated August 1, 2024 regarding the following records:

- Monthly approved financials from every meeting minutes from January 2020 to date

Based on your request, we assume you are referring to the Statements of Financial Activities that are appended to the Regular Council Meeting minutes.

Please find attached the Statements of Financial Activities that were appended to the Regular Council Meeting minutes from January 2020 to date.

Please note that in the year of 2023, a Statement of Financial Activities was only appended to the Regular Council Meeting minutes for the month of December.

Section 5 of LA FOIP permits access to **existing** records that are **in the possession or under the control** of a local authority. As such, the RM is not required to create new records in response to an information request. To that end, the RM is providing the Statement of Financial Activities for December, 2023, as that is the only existing Statement of Financial Activities for the year of 2023.

We advise that the amount of legal fees on the 2023 and 2024 Statements of Financial Activities has been redacted on the basis of the exemption in section 21(a) of LA FOIP...

Due to ongoing litigation, there is a reasonable possibility that the disclosure of the amount of legal fees will reveal communications protected by solicitor-client privilege, and therefore, any information regarding the amount of legal fees, including total expenditures has been redacted.

[Emphasis in original]

[8] On September 16, 2024, my officed received a request for review from the Applicant. The Applicant indicated that they were refused access to all or part of a record and had been notified that records do not exist/cannot be found.

[9] On October 10, 2024, my office requested that the RM reconsider its application of subsection 21(a) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) to portions of the record. My office also asked the RM to clarify if it has the financial statement/activities for each council meeting “between 2020 and July 2, 2024” and, if not, why they “appear to be referenced in the meeting minutes.”

[10] On October 15, 2024, the RM’s legal counsel emailed a letter to my office stating:

In your email, you asked whether the RM would reconsider its application of subsection 21(a) of LA FOIP to portions of the record. Upon reconsideration, the RM takes the position that the request falls under the exemptions in section 21(a) and s. 14(1)(d) of LA FOIP. Due to the RM's ongoing litigation... there is a reasonable possibility that the disclosure of the amount of legal fees paid will reveal communications protected by solicitor-client privilege and will be injurious to the RM in the conduct of that litigation.

You also inquired as to whether the RM has the financial statement/activities for each Council meeting between 2020 and July 2, 2024. We can advise that the "condensed financials" you referred to in your email are the same financial statements that were attached to the Council meeting minutes. It is the RM's practice to present the condensed financial statements at the Council meetings.

As per your request, please find enclosed the Statements of Financial Activities the RM has already disclosed to [the Applicant] in response to [their] information request:

- January - December 2020
- January – December 2021
- January – December 2022
- December 2023 (redacted)
- January – July 2024 (redacted)

The Statements of Financial Activities listed above are all of the financial statements that were accepted as presented at the Council meeting minutes between 2020 – July, 2024, and appended to the Council meeting minutes.

As the RM advised in its correspondence to [the Applicant] on August 30, 2024, in the year 2023, a Statement of Financial Activities was only appended to the Regular Council Meeting minutes for the month of December. Therefore, [the Applicant] did not receive all of the financial statements appended to the meeting minutes for the period of 2020 to July 3, 2024.

Based on your email, the information request has been clarified to include the Statements of Financial Activities which were presented to Council from January – November, 2023, but were not in fact appended to the Council meeting minutes. In response to your request, the RM has re-created the Statements of Financial Activities which were presented to Council at the January – November 2023 Council meetings. These Statements of Financial Activities are enclosed and will be disclosed to [the Applicant] shortly.

- [11] On September 16, 2024, my office advised the RM that as it did not raise subsection 14(1)(d) of LA FOIP in its section 7 decision to the Applicant, that my office would not consider it.
- [12] On October 16, 2024, the RM released the January through November 2023 Financial Statements to the Applicant. On the same day, the Applicant emailed my office and advised that they were not satisfied with the records they received. My office responded to the Applicant advising that the scope of the review would include the RM's reliance on subsection 21(a) of LA FOIP and that, if the Applicant wished, a review of the RM's search efforts. The Applicant responded on October 17, 2024, advising that they would like to include the RM's search efforts in the scope of the review.
- [13] On October 17, 2024, my office notified the RM and the Applicant that my office would be undertaking a review of the RM's application of subsection 21(a) of LA FOIP and its search efforts.
- [14] On November 18, 2024, the RM's legal counsel provided my office with an index of records and a copy of the records. On December 16, 2024, the RM's legal counsel provided the RM's submission, which stated that it could not be "exchanged among the parties." The Applicant did not provide a submission.

II RECORDS AT ISSUE

- [15] The record at issue is the RM's statements of financial activities for December 2023 to July 2024 inclusive, totaling 47 pages. The RM withheld lines of costs on pages 4, 5, 10, 12, 14, 17, 19, 27, 28, 30, 35, 36, 39 and 47 (for a total of 14 pages) pursuant to subsection 21(a) of LA FOIP but released the remaining portions of these pages to the Applicant. I describe the pages and the information the RM withheld pursuant to subsection 21(a) of LA FOIP in more detail under my analysis of that exemption.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[16] The RM qualifies as a “local authority” as defined by subsection 2(1)(f)(i) of LA FOIP. Therefore, I find that I have jurisdiction to conduct this review.

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

[17] Section 5 of LA FOIP provides an applicant with a right of access to records in the possession or control of a local authority. It states:

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.

[18] The *Guide to LA FOIP*, Chapter 3, “Access to Records,” updated May 5, 2023 (*Guide to LA FOIP*, Ch. 3), at page 12, states that a “reasonable search” is one in which an employee, experienced in the subject matter, expends a reasonable effort to locate records which are reasonably related to the 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.

[19] When a local authority receives a notice of review from my office requesting details of its search efforts, some or all of the following can be included in the local authority’s submission (not exhaustive):

- 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/committees/boards were included in the search.
- For general requests – tie the subject matter of the request to the departments/divisions/branches/committees/boards 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, and 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, provides 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 or 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*](#).

(*Guide to LA FOIP*, Ch. 3, pp. 14-15)

[20] In this review, the Applicant has expressed concerns with the RM’s search efforts. Specifically, because the records released to them were “condensed” reports of the RM’s financial activities, rather than the “detailed” reports they sought.

[21] The RM’s legal counsel provided my office with the following regarding the RM’s efforts to locate the records responsive to the Applicant’s request:

The records requested by the Applicant consisted of:

- (1) the monthly financial statements attached to the RM Council meeting minutes between 2020 to July 2024; and
- (2) the minutes for the May 2021 RM Council meeting.

The monthly financial statements are created and provided to Council for review at each monthly Council meeting and once reviewed and approved by Council, they are initialed on each page and signed by the Reeve and Administrator and placed into the RM Council Minute Book with that month's meetings.

In order to locate the May 2021 meeting minutes, the Acting Administrator, [name of Acting Administrator], reviewed the Minute Book.

In order to locate the monthly financial statements between 2020-2024, [name of Acting Administrator] reviewed the Minute Book. When reviewing the Minute Book, [name of Acting Administrator] located most of the requested financial statements. However, for the 2023 year, [name of Acting Administrator] discovered that the only financial statement included in the Minute Book was for December 2023. During 2023, the RM had employed a different Acting Administrator part-time and it appears that Acting Administrator did not follow the RM's established practice of placing the financial statements in the Minute Book, or appending them to the monthly meeting minutes.

On August 30, 2024, the RM provided the Applicant with financial statements that were appended to the regular Council meeting minutes from January 2020 to July 2024, which did not include the financial statements between January through November 2023. The amount of legal fees on the December 2023 and 2024 financial statements were redacted pursuant to s. 21(a) of LA FOIP.

With the assistance of [their] mentor, [name of Mentor], [name of Acting Administrator] was able to re-create the January through November 2023 using the RM's accounting software. On October 16, 2024, the RM sent the Applicant the re-created financial statements for January through November 2023.

- [22] Based on the wording of the Applicant's access to information request, they asked for the monthly financial statements that were attached to the RM's Council meeting minutes between "2020 and July 2024." In other words, the Applicant's wording set the scope for the access request. The RM explained how it interpreted the Applicant's access request, and then took steps to understand why certain financial statements were missing. The RM then provided those statements to the Applicant. Based on the information provided by the RM on how it interpreted the Applicant's access to information request and how it

searched, I find that the RM conducted a reasonable search for responsive records. However, I would like to address the Applicant's concerns, as noted in my office's notification email of October 17, 2024, that they received the condensed financial statements when they wanted access to the detailed financial statements instead as follows:

...the Applicant has advised they have been provided the condensed financial statements and the records they seek are the detailed financial statements which are to be attached to each month's RM meeting minutes.

[23] In an emailed letter to my office dated October 15, 2025, the RM's legal counsel stated that the RM's practice is to present and append condensed financial statements at council meetings, not the detailed ones. The RM, however, has on occasion included the detailed ones. For example, the records that were withheld in part from the Applicant and that are at issue in this Report, are comprised of eight reports for different time periods between December 2023 to July 2024. There is a statement at the end of each of these reports outlining that they were presented to Council on specific dates. Of those eight reports, five are detailed reports while the remainder are condensed. This appears to be inconsistent with the RM's assertion that the condensed financial statements are provided to Council. As such, it appears the RM has on occasion made the detailed reports available.

[24] Regardless, it appears the RM has the ability to generate the statements the Applicant is looking to access using the RM's accounting software. As outlined above, the RM did not originally have the monthly financial statement for January through November 2023 appended to the minutes. In an effort to provide records responsive to the Applicant's request, the RM instead released the "Statement of Financial Activities for the year of 2023" to the Applicant. After the Applicant submitted a request for review to my office, the RM used its accounting software to generate the monthly statements for January through November 2023 and released these records to the Applicant. I commend the RM for taking steps to generate these records and release them to the Applicant. The RM, however, provided the Applicant with the condensed versions of these financial statements, rather than the detailed statements that they sought.

[25] While I found the RM's search was reasonable, in the interest of resolving this matter, I recommend that, within 30 days of the issuance of this Report, the RM send to the Applicant the detailed financial statements (for the periods of January 2020 to July 2024). Doing so may help avoid having the Applicant submit new access requests for the detailed versions of the financial statements.

3. Did the RM properly apply subsection 21(a) of LA FOIP?

[26] The RM withheld portions of pages 4, 5, 10, 12, 14, 17, 19, 27, 28, 30, 35, 36, 39 and 47 pursuant to subsection 21(a) of LA FOIP as follows:

- A line of "Legal" amounts and the total amounts for "Professional/Contract Services" on pages 4, 5, 12, 17, 27, 28, 35 and 36.
- Lines that describe the amounts for "TOTAL EXPENDITURES", "CHANGE IN NET FINANCIAL ASSETS", "CHANGE IN NET ASSETS" and "CHANGE IN SUPRPLUS" on pages 10, 14, 19, 30, 39 and 47.

[27] The RM provided my office with copies of the records for the purposes of this review.

[28] Subsection 21(a) of LA FOIP provides:

21 A head may refuse to give access to a record that:

- (a) contains any information that is subject to any privilege that is available at law, including solicitor-client privilege;

[29] This is a discretionary exemption. It permits refusal of access in situations where a record contains information that is subject to any legal privilege, including solicitor-client privilege, litigation privilege and settlement privilege (*Guide to LA FOIP*, Chapter 4, "Exemptions from the Right of Access," updated October 18, 2023 [*Guide to LA FOIP*, Ch. 4], p. 223).

[30] The purpose of solicitor-client privilege is to assure clients of confidentiality and enable them to speak honestly and candidly with their legal representatives. The *Guide to LA*

FOIP, Ch. 4, at pages 225 to 232, sets out the following three-part test that my office uses to determine if the privilege applies:

1. Is the record a communication between solicitor and client?
2. Does the communication entail the seeking or giving of legal advice?
3. Did the parties intend for the communication to be treated confidentially?

[31] The privilege only applies where the parties involved in the communication qualify as solicitor and client. Page 226 of the *Guide to LA FOIP*, Ch. 4, sets out the following definitions for “solicitor” and “client”:

- “Solicitor” means a lawyer who is duly admitted as a member and whose right to practice is not suspended. “Lawyer” means a member of the Law Society and includes a law student registered in the Society’s pre-call training program.
- “Client” means a person who:
 - Consults a lawyer and on whose behalf the lawyer renders or agrees to render legal services; or
 - Having consulted the lawyer, reasonably concludes that the lawyer has agreed to render legal services on his or her behalf;

and includes a client of the law firm of which the lawyer is a partner or associate, whether or not the lawyer handles the client’s work.

[32] In my office’s [Review Report 003-2017](#) at paragraph [20], my office found that information from a local authority’s accounting system would not be information contained within a lawyer’s bill of account, and therefore, would not qualify as a communication between solicitor and client. The financial statements attached to the Minutes would be generated from the RM’s accounting system and are not copies of legal invoices and thus, are not communications between solicitor and client. The first part of the test, therefore, is not met.

[33] Based on the information submitted to my office, I find that the RM has not properly applied subsection 21(a) of LA FOIP to pages 4, 5, 10, 12, 14 ,17, 19, 27, 28, 30, 35, 36,

39 and 47, I recommend that the RM release the record to the Applicant, in full, within 30 days of issuance of this Report.

IV FINDINGS

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

[35] I find that the RM conducted a reasonable search for responsive records.

[36] I find that the RM has not properly applied subsection 21(a) of LA FOIP to pages 4, 5, 10, 12, 14, 17, 19, 27, 28, 30, 35, 36, 39 and 47.

V RECOMMENDATIONS

[37] I recommend that the RM take no further action regarding the search for records.

[38] I recommend that, within 30 days of the issuance of this Report, the RM send to the Applicant the detailed financial statements (for the periods of January 2020 to July 2024).

Dated at Regina, in the Province of Saskatchewan, this 23rd day of April, 2025.

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