

**SASKATCHEWAN
INFORMATION AND PRIVACY COMMISSIONER**

REVIEW REPORT 114/2013

Saskatoon Public Library

Summary: The Applicant submitted an access to information request to the Saskatoon Public Library (SPL). SPL issued a fee estimate to the Applicant. The Applicant appealed the fee estimate to the Information and Privacy Commissioner (IPC). The IPC found that the fee estimate was reasonable. He recommended that the fee estimate remain the same.

I BACKGROUND

- [1] In a letter dated August 8, 2013, the Applicant's lawyer requested any and all files that the Saskatoon Public Library (SPL) has with respect to the Applicant.
- [2] By email, SPL advised the Applicant she could view her employee file at the Administration office.
- [3] The Applicant appealed to my office in a letter August 30, 2013.
- [4] In a letter dated December 3, 2013, my office notified SPL that it would be undertaking a review pursuant to Part VI of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). My office asked that SPL provide a proper response to the Applicant pursuant to section 7 of LA FOIP.
- [5] In a letter dated December 13, 2013, SPL issued a section 7 response to the Applicant. However, SPL had only provided the Applicant with a copy of her employee file. The Applicant's lawyer request was for "any and all files" that SPL has with respect to the Applicant.

[6] In a letter dated March 12, 2014, my office expanded the scope of the review and asked that SPL provide a response pursuant to section 7 of LA FOIP for “any and all files” that SPL has with respect to the Applicant.

[7] In a letter dated April 11, 2014, SPL issued the following fee estimate letter to the Applicant:

Fees for Search			\$0.00
Severing and Preparing Records			
Location of Records Relevant FOI Application	Paper & Electronic Records		
	# of records to review	Cost to review records	Total Cost
Deputy Library Director's Office	<ul style="list-style-type: none"> .5 file box of records (includes electronic records) 	1 hours [sic] \$30/hr = \$30.00	\$30.00
Former A/Manager HR Office	<ul style="list-style-type: none"> .5 file box of records (includes electronic records) 	1 hours [sic] \$30/hr = \$30.00	\$30.00
Occupational Health & Safety Office [COS]	<ul style="list-style-type: none"> .5 box of records (includes electronic records) 	1 hours [sic] x \$30/hr = \$30.00	\$30.00
IT Manager	<ul style="list-style-type: none"> .5 box of records (includes electronic records) 	1 hour x \$30.00/hr = \$30.00	\$30.00
Administration Office, Manager HR Office	<ul style="list-style-type: none"> 12 boxes of paper records (approx.. 6000 pages, several double sided) 	40 hours x \$30.00/hr = \$1200.00	\$1200.00
TOTAL ESTIMATE TO SEVER AND PREPARE RECORDS		\$1320.00	
Fee for Reproduction – 6000 pages x .25/page		\$1500.00	
ESTIMATE SUBTOTAL		\$2820.00	

Minus 1 hour provided free of charge (LAFOIP Regulations – Section 5(3) fees)	(\$30.00)
TOTAL ESTIMATE	\$2790.00
DEPOSIT REQUIRED	\$1395.00

[8] In a telephone conversation with my office, the Applicant requested that my office review the fee estimate issued.

II DISCUSSION OF THE ISSUES

[9] SPL is a local authority pursuant to subsection 2(f)(vi) of LA FOIP.

1. Are the fees estimated by SPL reasonable?

[10] Section 9 of LA FOIP provides SPL with the ability to issue a fee estimate to the Applicant where the amount will exceed the prescribed fee of \$50.

[11] Fee estimates are generally judged on the basis of whether they are reasonable. The local authority bears the burden of establishing the reasonableness of the fee.

[12] There are three kinds of fees that a public body can include in its fee estimate:

1. fees for searching for a responsive record;
2. fees for preparing the record for disclosure; and
3. fees for the reproduction of records.

[13] I will break down SPL's fee estimate into the above three types of estimates to determine if the fee estimate is reasonable or not.

1. Fees for searching for a responsive record

[14] SPL did not provide a fee estimate for search for records.

2. Fees for preparing the record for disclosure

- [15] My office has established that an estimate of two minutes per page to prepare the records requiring severance is reasonable. The preparation of records includes the actual severing, or the physical removal, of information in a document and preparing it for disclosure. This estimate does not include the printing of documents nor would it include the time to read the documents.
- [16] Subsection 5(3) of the LA FOIP Regulations allows the local authority to charge a fee of \$15 for each half-hour for preparing the records, if the time is in excess of one hour.
- [17] In its submission dated May 8, 2013, SPL clarified that the 0.5 file boxes of record means it is estimating 250 pages of responsive records. Based on the fee estimate detailed in the background section, this would mean that it is estimating that there are 7200 pages responsive to the Applicant's request. I find that preparing 7200 pages at two minutes per page would take 240 hours. That would total \$7200. However, according to subsection 5(3) of the LA FOIP Regulations, only the time in excess of one hour can be charged. So the fee estimate for preparation should only be \$7170.00.
- [18] SPL estimated \$1320.00. I find that this fee estimate for the preparation of records to be reasonable.
- [19] The Applicant challenged the number of pages that SPL was estimating. In her submission dated August 14, 2014, she advised my office that she has approximately 1000 pages of records from her almost four years of employment with SPL. Therefore, she asserted that SPL's estimate is a "gross error in estimation and/or an abundance of duplicated documents that distorts their numbers and estimated costs".
- [20] SPL provided my office with the following image of the responsive records. At one side, they placed a 500 page package of paper to demonstrate the volume of records. Based on

the image, my office sees that there could be 7200 pages of responsive records.



[21] Should the Applicant decide to proceed with the processing of this access to information request, duplicate copies of records should be removed and the actual fee should not include charges for duplicate records. It should also only reflect the actual time it took to prepare the records for disclosure. In the event that the estimate exceeds the actual amount, and a deposit has been paid by the Applicant, then the amount of the deposit in excess of the fee is to be refunded to the applicant, pursuant to subsection 7 of the LA FOIP Regulations.

3. Fees for the reproduction of records

[22] Subsection 5(2)(a) of the LA FOIP Regulations allows for \$0.25 to be charged for each page that is photocopied.

[23] If SPL estimates that there are 7200 pages of responsive records, then it can estimate 7200 at \$0.25/page, which equals \$1800.00.

[24] SPL's estimate was \$1500.00. I find that SPL's fee estimate for reproduction costs was reasonable.

[25] I should note that, should the Applicant wish to proceed with the processing of this access request, and the estimate exceeds the actual amount of fees, the actual amount should be payable by the Applicant pursuant to subsection 6(2) of the LA FOIP Regulations.

IV FINDINGS

[26] I find that the fee estimate by SPL for preparing the records and for reproducing the records is reasonable.

V RECOMMENDATIONS

[27] I recommend that the fee estimate dated April 11, 2014 remain the same.

Dated at Regina, in the Province of Saskatchewan, this 13th day of January, 2015.

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