

**SASKATCHEWAN  
INFORMATION AND PRIVACY COMMISSIONER**

**REVIEW REPORT 123/2013 – LA FOI/AI**

**Sunrise Regional Health Authority**

**Summary:** The Applicant submitted an access to information request to the Sunrise Regional Health Authority (SRHA). SRHA issued a fee estimate. The Applicant appealed the fee estimate to the Information and Privacy Commissioner (IPC). During the course of the review, SRHA agreed to re-adjust its fee estimate from \$338.75 to \$326.25. The IPC found that this fee estimate was reasonable. He recommended that SRHA issue a fee estimate for \$326.25.

**I BACKGROUND**

[1] In a letter dated November 5, 2013, the Applicant submitted an access to information request to the Sunrise Regional Health Authority (SRHA).

[2] In a letter dated November 27, 2013, SRHA provided a fee estimate to the Applicant. The fee estimate was as follows:

	<b>Type of Fee</b>	<b>Calculation of Fees</b>	<b>Total Amount of fees</b>
1	Time required to search for records	1 hour x \$15.00/half hour	\$30.00
2	Time required to prepare records for disclosure	9 hours x \$15.00/half hour	\$270.00
3	Photocopies of Records	275 x \$0.25/page	\$68.75
5 (sic)	LESS:	1 hour free x \$15.00/half hour	(\$30.00)
<b>Total amount of fees required to process access request</b>			<b>\$338.75</b>

[3] On December 11, 2013, my office received a request from the Applicant to review the fee estimate.

[4] In letters dated December 18, 2013, my office sent notification letters to the Applicant and SRHA to advise that we would be undertaking a review.

## II DISCUSSION OF THE ISSUES

[5] The SRHA is a local authority pursuant to subsection 2(f)(xiii) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

### 1. Are the fees estimated by the Sunrise Health Region reasonable?

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

[7] 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.

[8] 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.

[9] Below, the analysis is broken down into these three kinds of fees to determine if SRHA's fee estimate is reasonable.

### 1. Fees for searching for a responsive record

[10] Subsections 5(3) and 5(4) of LA FOIP Regulations provide a local authority with the ability to recover costs associated with searching for responsive records.

[11] Where the search for responsive records exceeds one hour, SRHA can charge \$15.00 for every half hour after that.

- [12] This office has previously stated that search time consists of every 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 listings of records either on paper or electronic, pulling paper files/specific paper records out of files, and/or reading through files to determine whether records are responsive. However, 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 or having someone review the results of the search.
- [13] Further, this office has previously established that it should take an experienced employee approximately one minute to examine 12 pages to determine if they are responsive or not.
- [14] SRHA's submission dated January 9, 2014 estimated there to be 276 pages of responsive records. Based on my office's estimate of one minute to examine 12 pages to determine if they are responsive or not, 276 pages at 12 pages/minute is 23 minutes.
- [15] Before I make a finding as to whether SRHA's fee estimate for search is reasonable, I need to consider the fees for preparation. This is because subsection 5(3) of LA FOIP speaks to search and preparation of records.

## **2. Fees for preparing the record for disclosure**

- [16] In the past, my office had established that an estimate of two minutes per page to prepare the records requiring severance is reasonable. Subsection 5(3) of the LA FOIP Regulations allows the local authority to charge a fee of \$15 for each half-hour for preparing of the records, if the time is in excess of one hour.
- [17] In its submission dated January 9, 2014, SRHA asserted that the responsive records would contain third party information that would require severing. Based on what was previously established by our office, I find the following 276 pages at two minutes per page is 552 minutes or 9.2 hours.
- [18] When I add the 552 minutes for preparation with the 23 minutes for search, I get 9.58 hours. Subsection 5(3) states that any time in excess of one hour should be charged at a rate of \$15 for each half-hour. Therefore, the fee estimate for search and preparation should be \$257.50.

[19] SRHA had estimated \$270 for the cost of preparing the records for release. My office had found that SRHA's estimate to be unreasonable.

[20] When my office notified SRHA of this finding, SRHA indicated it would adjust its fee estimate for the search and preparation of records to \$257.50.

**3. Fees for the reproduction of records.**

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

[22] If SRHA estimates that there are 276 pages of responsive records, then it can estimate 276 pages at \$0.25/page, which equals \$69. SRHA's fee estimate is for \$68.75. I find that SRHA's fee estimate for reproduction costs is reasonable.

[23] Finally, I should note that I am merely discussing estimates of fees. 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**

[24] I find that, since SRHA agreed it would adjust its fee estimate for search and preparation to \$257.50, that the new fee estimate of \$326.25 is reasonable.

**V RECOMMENDATIONS**

[25] I recommend that SRHA issue to the Applicant a revised fee estimate of \$326.25.

Dated at Regina, in the Province of Saskatchewan, this 2nd day of October, 2014.

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