OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
—— for ——
British Columbia

Order F10-30

MINISTRY OF FINANCE

Michael McEvoy, Adjudicator

August 26, 2010

Summary: The applicant requested records detailing what ministries were responsible for payments to certain government suppliers listed in the Public Accounts. The Ministry said that producing the record required it to manually process raw data that s. 6(2) of FIPPA did not obligate it to do. The Ministry is not required to create the records that need manual processing but is required, under s. 6(2) to create a record containing the raw data.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, s. 6(2).

Authorities Considered: B.C.: Order F10-16, [2010] B.C.I.P.C.D. No. 25; Order 04-24, [2004] B.C.I.P.C.D. No. 24.

1.0   INTRODUCTION

[1]   The Ministry of Finance ("Ministry") publishes the "Public Accounts" annually.   The Public Accounts are, as the Ministry notes, one of the major accountability documents of the provincial government that include its audited financial statements. The Public Accounts also contain a "Consolidated Revenue Fund Detailed Schedule of Payments" ("Payment Schedule").   The Payment Schedule includes a list of "Other Suppliers"—companies and individuals who supply at least $25,000 worth of services and products each to the BC government. This case arose because the applicant wanted to know the names of the government ministries responsible for payments to suppliers listed in the 2006-07 and 2007-08 Payment Schedules—information not provided on the face of the Payment Schedule.

[2]   The Ministry answered that it had no records naming individual ministries responsible for paying the suppliers. The applicant suggested a method by which the Ministry could produce the record. He told the Ministry that if it lacked the capacity or willingness to do so, it should provide him with the "necessary raw data" and he would create the record himself. The Ministry declined to process the records as the applicant suggested because it said that doing so would unreasonably interfere with its operations under s. 6(2)(b) of the *Freedom of Information and Protection of Privacy Act* (*"*FIPPA"). The applicant complained to the Office of the Information and Privacy Commissioner about the Ministry's decision. Mediation was not successful in resolving the complaint and a written hearing into the matter was held June 8, 2010.

2.0   ISSUE

[3]   The stated issue in the hearing notice is whether the Ministry is entitled to refuse access to information because creating the records would unreasonably interfere with its operations under s. 6(2)(b) of FIPPA.

[4]   FIPPA is silent with regard to a burden of proof in a hearing related to s. 6(2)(b) matters. Previous decisions have held that, as a practical matter, it is in the interests of each party to provide argument and evidence to justify its position.

3.0   DISCUSSION

[5]   **3.1** *Parties' submissions—*The essence of the applicant's submission is that the Ministry should be able to produce the records he seeks with a minimum of difficulty. The applicant says that his experience in taking the supplier data on the Ministry's website and converting it to a standard spreadsheet format convinces him it would not take one person much time to generate the requested record.[1]

[6]   In addition the applicant says he has narrowed his original request to just nine percent of the approximately 11,000 suppliers appearing on the Payment Schedule for 2006-07 and 2007-08.

[7]   The applicant states he provided the Ministry with his abbreviated supplier list in a spreadsheet format and that the Ministry responded by generating a sample record. That sample, attached to the applicant's submission, lists supplier names and the amounts that individual ministries expended on the suppliers.[2] The applicant asks the Ministry to amend the sample to show the

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[1] Applicant's initial submission, para. 4.
[2] Exhibit C to the applicant's initial submission.

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subtotal of all ministry payments to a supplier where there is more than one.[3] The applicant disputes that this process would unreasonably interfere with the Ministry's operations. He argues the only tools and equipment required for this job are a desktop computer, a standard spreadsheet and "journeyman level expertise"[4] in using the spreadsheet tool.

[8]   The Ministry submits this is not a case where it can create the requested information from machine readable records using the Ministry's normal hardware, software and technical expertise. The Ministry contends that its focus in preparing the Public Accounts is on the government expenditures to suppliers and not on which individual ministries contract with those suppliers.

[9]   The Ministry says that for this reason it does not possess electronic records relating to individual ministry payments. It argues the only way it could create the requested record would be to have the Ministry of Citizens' Services provide the raw data in question through its Corporate Accounting System (CAS) and then manually reconcile that raw data to ensure consistency with the Public Accounts. The Ministry says it "proactively" asked the CAS administrator to produce the raw data, including payments by individual ministry, which it did.[5]

[10]   However, it contends this is not the record the applicant seeks because:[6]

> …it represents the raw data that was used to start the process of compiling the Public Accounts and is not the information ultimately included in the Public Accounts because the raw data had to undergo the necessary manual adjustments…

[11]   The Ministry contends that, in order to finalize the Public Accounts, it made adjustments for 420 of all 11,000 suppliers listed on the Payment Schedule for 2006-07 and 2007-08.[7] Linda Bondessen, a ministry manager, deposes in her affidavit that she does not know how many adjustments would be necessary for the applicant's narrowed request involving the 900 suppliers.[8] Nonetheless, the Ministry submits it would take a ministry employee five days to copy the suppliers list to the applicant's spreadsheet, reconcile the supplier totals against the Public Accounts and then make whatever adjustments are necessary.[9] Linda

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[3] The applicant attached an example of what this would look like in the form of Exhibit D attached to his initial submission.
[4] Applicant's initial submission, para. 9.
[5] Ministry initial submission, para. 4.24.
[6] Ministry initial submission, para. 4.27.
[7] Affidavit of Linda Bondessen, para. 20.
[8] Linda Bondessen's affidavit evidence expressed this figure as 450 suppliers for each of the years requested by the applicant. For the sake of consistency, I have expressed this figure here as covering the two years the applicant requests.
[9] Affidavit of Linda Bondessen, paras. 25 to 27.

Bondessen deposes that this process would directly impact the Ministry's operations:[10]

> …as approximately fifty percent of the work done by the [Ministry] staff is required by Legislation and has specific deadlines. A reduction of staff resources will also have an effect on the ability to produce the requested information although to a lesser degree than the original request.

[12]   Based on the above, the Ministry argues that it is not able to create the requested record using its normal hardware, software and technical expertise but even if it could, the request would create an unreasonable interference with the Ministry's operations.

[13]   In reply, the applicant questions the time required to process his narrowed request. He argues that, if it takes the Ministry 10 to 12 days to process his original request involving 11,000 suppliers, how would it take the Ministry five days to process the request for 900 suppliers? In the alternative, the applicant says he will be satisfied with the raw data that they "already have" and that he has advised the Ministry he is willing to accept the data in this form.

3.2 *Findings*—Section 6 of FIPPA reads as follows:

Duty to assist applicants

6(1)   The head of a public body must make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely.

(2)   Moreover, the head of a public body must create a record for an applicant if

(a)   the record can be created from a machine readable record in the custody or under the control of the public body using its normal computer hardware and software and technical expertise, and

(b)   creating the record would not unreasonably interfere with the operations of the public body.

[14]   The issue in this inquiry is whether the Ministry can create the records requested by the applicant pursuant to the terms of s. 6(2)(a) of FIPPA and if so would creating those records unreasonably interfere with the Ministry's operations. I refer to "records" in the plural for reasons explained later.

[15]   This case is similar, though not identical, to that which I decided in Order F10-16.[11] In that Order, I found that the Ministry would need to use its normal

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[10] Affidavit of Linda Bondessen, para. 27 where she specifically identifies the Office of the Comptroller General, a branch of the Ministry, as the impacted area.
[11] [2010] B.C.I.P.C.D. No. 25.

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computer hardware and software as well as additional considerable manual processing to create the record in issue. I determined that, in those circumstances, the Ministry was not obligated by s. 6(2)(a) of FIPPA to undertake the considerable manual processing needed to create the record.

[16]   In this case, the Ministry asserts that creating a record for the applicant that accurately reflects the Public Accounts supplier totals would also involve considerable manual processing. Specifically, it would be necessary to adjust manually the supplier totals from the raw data in order to reconcile them with those found in the Public Accounts.

[17]   The applicant agrees that manual adjustments of the raw data would be necessary to reconcile it with the Public Accounts but says this process would take nothing like the five days the Ministry claims. He estimates the actual time required would be one day.

[18]   I agree with the applicant that the Ministry in all likelihood has overstated the amount of manual processing required to reconcile the raw data. However, even if true, this does not assist the applicant because s. 6(2)(a) does not obligate the Ministry to undertake five days or one day of manual adjustments to create the record. Section 6(2)(a) requires the Ministry to create a record when it can do so using its normal computer software, hardware and technical expertise. There may be occasions when some element of manual processing is incidental to a public body's obligations under s. 6(2)(a). However, this is not one of them. This finding is consistent with Order F10-16 and other previous orders.[12]

[19]   However, this does not end the matter. The Ministry's argument suggests the records requiring manual adjustments are the only ones the applicant requests. This is not correct. The applicant's initial and reply submissions both refer to the fact he would be satisfied if the Ministry supplied him with a record in raw data form.[13] I take the applicant to mean the raw data naming the supplier, ministry and total amount for each ministry that paid the supplier. This record would of course not be reconciled with the Public Accounts. Reconciled or not however, the applicant is entitled to this information if it can be created from machine readable records using the Ministry's normal computer software, hardware and technical expertise. The applicant says the Ministry already has this raw data. The Ministry for its part says it "proactively" obtained data, through CAS, for both 2006-07 and 2007-08 containing the name of the supplier, ministry and total amount for each ministry that paid the supplier. It was not clear to me whether this was for all 11,000 suppliers or only the 900 suppliers connected with the applicant's narrowed request. The Ministry subsequently notes it would need to generate the raw data for the narrowed request from the CAS based on the spreadsheet of names the applicant provides. In any event, the Ministry clearly implies that it is able to generate the record, through the CAS, encompassing the

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[12] Such as Order 04-24, [2004] B.C.I.P.C.D. No. 24.
[13] Applicant's initial submission, para. 2 and Exhibit B; applicant's reply submission, para. 8.

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raw data based on the applicant's spreadsheet.[14] The Ministry makes no claim that creating the raw data record, without having to do manual adjustments, would unreasonably interfere with its operations. Therefore, under s. 6(2) of FIPPA, it must create this record the applicant requests.

4.0   CONCLUSION

[20]   For the reasons given above, I find that the Ministry is not obligated under s. 6(2) to create the record the applicant requests related to raw data requiring manual adjustments to reconcile it with the Public Accounts.

[21]   However, the Ministry is required to create a record under s. 6(2) of FIPPA containing the raw data related to the applicant's spreadsheet found at Exhibit B of the Linda Bondesen affidavit and which contains the name of the supplier, the ministry and total amount for each ministry that paid the supplier for the years 2006-07 and 2007-08.

[22]   I require the Ministry to give the applicant access to the record identified in the above paragraph within 30 days of the date of this order, as FIPPA defines "day", that is, on or before October 8, 2010 and, concurrently, to copy me on its cover letter to the applicant, together with a copy of the records.

August 26, 2010

ORIGINAL SIGNED BY

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Michael McEvoy
Adjudicator

OIPC File No.F09-39056

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[14] Ministry's initial submission, para. 4.31.