



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-677

Appeal M_9500515

Regional Municipality of Ottawa_Carleton



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

The Regional Municipality of Ottawa-Carleton (the Region) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to the tender submitted by the successful bidder in tender number HC-0493-ME-96 (Section 3) which related to the sale of medical equipment to the Region. The record which the Region identified as responsive to the request is a document entitled "The Home Care Program of the Regional Municipality of Ottawa-Carleton Health Department - Supply of Medical Equipment - Section 3: Specialty Equipment" which contains the prices submitted by the successful bidder. The Region decided to grant access to the record.

The successful bidder was notified of the request and the Region's decision to grant access to the record and has appealed the Region's decision. The successful bidder (now the appellant) claims that the record is exempt under the following section of the Act:

- third party information - section 10(1)

A Notice of Inquiry was sent to the appellant, the original requester and the Region. Representations were received from the appellant and the Region.

DISCUSSION:

One of the requirements which a party resisting disclosure under section 10(1) of the Act must meet is to show that the information was supplied to the Region in confidence, either implicitly or explicitly.

Order M-345, dated July 12, 1994, dealt with an appeal of a decision by the Region to disclose similar information submitted by the same appellant. In that order, Inquiry Officer Donald Hale upheld the Region's decision to grant access to the tender submitted by the appellant. In doing so, he found that the Region has a long standing and consistent practice of granting full access to requests for unit pricing information within its tendering process. He also found that "the appellant's expectation of confidentiality was unreasonable, given the nature of the circumstances surrounding the tendering process" and that, in his view, the exemption provided by section 10(1) of the Act did not apply.

Having reviewed the record and the representations of the Region and the appellant, it is my view that the same considerations which were addressed in Order M-345 apply in this appeal. The information at issue is akin to the information which was at issue in the appeals which resulted in that order. The institution has relied on the same factual circumstances to support their decision to grant access to the information. The appellant has not identified any circumstances or raised any argument which would distinguish this appeal from the appeal which resulted in Order M_345. Therefore, I am of the view that the appellant has not established that the information at issue was supplied to the Region in confidence, and it is not exempt from disclosure under section 10(1).

ORDER:

1. I uphold the Region's decision to grant access to the record.
2. I order the Region to disclose the record to the requester within (fifteen) 15 days of the date of this order.
3. In order to verify compliance with the provisions of this order, I reserve the right to require the Region to provide me with a copy of the record which is disclosed to the requester pursuant to Provision 2.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ December 21, 1995